

\*21OCT19 AM 8:11 CITY CLERK

October 18, 2021

From: Planning Commission

Re: Public Written Testimonies on Short-Term Rental  
Submitted 8/18/21 – 9/8/21 relating to Departmental  
Communication D-702 (2021)

From: Y Yao [mailto:yyao2008@gmail.com]  
Sent: Wednesday, August 18, 2021 9:28 AM  
To: Takara, Gloria C  
Subject: TVU of Waikiki Resort zone (comments on DPP latest STR bill)

CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

RECEIVED  
21 AUG 18 AM 10:07  
DEPT OF PLANNING  
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CITY & COUNTY OF HONOLULU

Aloha Chair Brian Lee, and Members of the Planning Commission,

I have major concerns regarding DPP's latest proposed amendments to Chapter 21 relating to Transient Accommodations. The core issue is that it proposes to eliminate TVUs in Waikiki resort district (Per Table 21-9.6(A) Waikiki Special District Permitted Uses), which have been permitted land use in Waikiki Resort district for decades. We find this elimination troubling and problematic.

Resort district of Waikiki is where the legal TVU and B&B belongs, which is consistent with Waikiki special district's development plan. Any efforts to regulate STRs and reduce impacts on residential neighborhoods should be laser focused on addressing management of non-conforming use STRs in non-resort areas, and enforcement efforts on illegal STRs in residential districts. Properties within Resort Zones should not be impacted.

Please take the following points into consideration:

1. Disallowing TVUs in Waikiki **Resort District** contradicts DPP's stated goals: DPP states in the memorandum that its two overall goals of the proposed amendment are: Reduce impacts on residential neighborhoods, and  
2. Regulates STRs that are permitted only in or adjacent to existing resort areas. We understand the disruption STRs (TVUs and B&Bs) can cause in residential districts. Therefore it is critical to keep them within the resort district, primarily Waikīkī, our state's tourism hub. Waikiki resort district should be the only place where STRs are allowed. Owners of TVUs in the Waikīkī Resort District have operated LEGALLY for decades as they are permitted use in the Resort Zone of Waikīkī. The issue is the proliferation of illegal STR's in non- resort areas. Resort Area TVUs and B&Bs are and have always been legal. I have trouble understanding how eliminating legal TVUs in resort zone of Waikiki achieve any of the above two goals.
2. Disallowing TVUs in **Waikiki Resort District** does not represent fair treatment of property rights: Over decades time, properties in Waikīkī'

Resort Zone were purchased for TVU use in accordance with the LUO. TVUs have been permitted in the Waikīkī Resort-Mixed use District since the LUO's inception. This bill attempts to take away the TVU and B&B use for Waikīkī Resort Zone. How can legal permitted use of properties in the appropriate Zone be taken away from property owners? What is the legal basis for stripping the specific use right of the property owners who bought into these units in accordance with the LUO's permitted use prior to this proposed bill? Where is the due process afforded to these owners of legal TVUs concerning their property rights? It is as if if you buy a house that currently is zoned for residential use, and then 10 years later you are told "Sorry DPP changes the land use and residential use is no longer allowed". So I will have to move out of my house as it is not an allowable use anymore? As if I need to be able to predict that is what will happen 10 year after I purchase the property? Does this sound right?

3. What is the justification for disallowing existing legal conforming use of TVUs in **Waikiki Resort Zone**, while non-conforming use in non-resort zones can continue with NUC?? The amendment allows non-conforming use of TVU to continue in non-resort zoning districts, if the owner holds a valid NUC. How does it make any legal and logical sense that non-conforming use in residential and other non-resort zones is allowed to continue with a valid NUC, while the legal conforming use of TVU units in Waikiki resort zone is now banned?
4. What is the justification for disallowing existing legal conforming use of TVUs in **Waikiki Resort Zone** while allowing A1/A2 zone of Gold Coast to get TVU use? The draft Bill allows parcels in the A1 & A2 zone in the Gold Coast area to rezone as "resort" in order to allow TVUs in such areas "near existing resorts." Essentially this means that the Resort Zone of Waikīkī will no longer allow TVUs, but non-resort zones such as the Gold Coast will be allowed to have legal TVU's. This does not make sense and is similar logic to #3 above. These provisions again contradict each other.
5. The proposed bill added hotels as permitted use in the Apartment precinct of Waikiki, intending to keep all tourists in Waikiki. What is the justification for stripping the Waikiki resort zone of TVU use, while allowing more hotel units to be added in the non-resort zoned apartment district of Waikīkī?
6. TVUs are permitted use for resort zoning districts in Waikīkī. There is no limitation on TVU ownership per current LUO. Over decades of time property owners have purchased more than one legal TVU unit in Waikīkī based on the LUO. The draft Bill places a limitation on TVU ownership

which is another violation of the legal right of TVU unit owners in Waikiki resort zone who bought and own TVUs properties, when no such limitation was in the LUO.

7. The draft Bill also changes the definition of a TVU from 30 days or less to 180 days or less. That is not reasonable. TVUs (Transient Vacation Unit), by its name, are “transient” in nature and are meant to be a lodging option for visitors who come to Hawai‘i on a leisure or business trip lasting anywhere from one to 30 days. It is a rental for a “short term” such as a hotel who rents rooms on a nightly basis. Also, this would essentially change the long standing land use for all residential parcels across Oahu that allow 30-day minimum use. It creates an issue for people who rent out their units on a “month to month” basis. There are a lot of property owners who purchased property with the understanding they can rent the property on a month to month basis. True TVUs should remain 30 day or less rentals.

Mahalo for your consideration.

Yang Yao

RECEIVED

21 AUG 18 10:49

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-----Original Message-----

From: Sean Roberts [<mailto:seanymroberts@hotmail.com>]

Sent: Wednesday, August 18, 2021 10:38 AM

To: Takara, Gloria C

Subject: Dpp latest STR Bill concerning legal TVUs in Waikiki resort zone

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

I am deeply troubled by DPP's proposed changes to chapter 21 that remove TVU as permitted use in the waikiki resort district.

Any problems with tvus are outside the resort zone, primarily in residential neighborhoods. Therefore, any new proposals should seek simply to allow effective policing of the current zoning.

I am a local resident. I operate legal tvus in the Waikiki resort zone. Over the past 5 years i have dedicated my efforts to operate a legal tvu business to support my family. I see no justification for seeking to destroy my livelihood by arbitrarily removing my property rights.

How would you feel if, on a whim, the City suddenly decided to remove your property rights by, for example, deciding that you were no longer allowed to live in your home because of a change in land use?

DPP's proposal to eliminate TVU in Waikiki Resort District is immoral and needs to be discarded.

**From:** Adam Zarro [mailto:adamzarro@gmail.com]  
**Sent:** Wednesday, August 18, 2021 12:32 PM  
**To:** Takara, Gloria C  
**Subject:** TVU Waikiki resort zone

CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

Aloha Chair Brian Lee, and Members of the Planning Commission,

I have major concerns regarding DPP's latest proposed amendments to Chapter 21 relating to Transient Accommodations. The core issue is that it proposes to eliminate TVUs in Waikiki resort district (Per Table 21-9.6(A) Waikiki Special District Permitted Uses), which have been permitted land use in Waikiki Resort district for decades. We find this elimination troubling and problematic.

Resort district of Waikiki is where the legal TVU and B&B belongs, which is consistent with Waikiki special district's development plan. Any efforts to regulate STRs and reduce impacts on residential neighborhoods should be laser focused on addressing management of non-conforming use STRs in non-resort areas, and enforcement efforts on illegal STRs in residential districts. Properties within Resort Zones should not be impacted.

Please take the following points into consideration:

1. Disallowing TVUs in Waikiki **Resort District** contradicts DPP's stated goals: DPP states in the memorandum that its two overall goals of the proposed amendment are: Reduce impacts on residential neighborhoods, and  
2. Regulates STRs that are permitted only in or adjacent to existing resort areas. We understand the disruption STRs (TVUs and B&Bs) can cause in residential districts. Therefore it is critical to keep them within the resort district, primarily Waikīkī, our state's tourism hub. Waikiki resort district should be the only place where STRs are allowed. Owners of TVUs in the Waikīkī Resort District have operated LEGALLY for decades as they are permitted use in the Resort Zone of Waikīkī. The issue is the proliferation of illegal STR's in non- resort areas. Resort Area TVUs and B&Bs are and have always been legal. I have trouble understanding how eliminating legal TVUs in resort zone of Waikiki achieve any of the above two goals.
2. Disallowing TVUs in **Waikiki Resort District** does not represent fair treatment of property rights: Over decades time, properties in Waikīkī'

Resort Zone were purchased for TVU use in accordance with the LUO. TVUs have been permitted in the Waikīkī Resort-Mixed use District since the LUO's inception. This bill attempts to take away the TVU and B&B use for Waikīkī Resort Zone. How can legal permitted use of properties in the appropriate Zone be taken away from property owners? What is the legal basis for stripping the specific use right of the property owners who bought into these units in accordance with the LUO's permitted use prior to this proposed bill? Where is the due process afforded to these owners of legal TVUs concerning their property rights? It is as if if you buy a house that currently is zoned for residential use, and then 10 years later you are told "Sorry DPP changes the land use and residential use is no longer allowed". So I will have to move out of my house as it is not an allowable use anymore? As if I need to be able to predict that is what will happen 10 year after I purchase the property? Does this sound right?

3. What is the justification for disallowing existing legal conforming use of TVUs in **Waikiki Resort Zone**, while non-conforming use in non-resort zones can continue with NUC?? The amendment allows non-conforming use of TVU to continue in non-resort zoning districts, if the owner holds a valid NUC. How does it make any legal and logical sense that non-conforming use in residential and other non-resort zones is allowed to continue with a valid NUC, while the legal conforming use of TVU units in Waikiki resort zone is now banned?
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5. The proposed bill added hotels as permitted use in the Apartment precinct of Waikiki, intending to keep all tourists in Waikiki. What is the justification for stripping the Waikiki resort zone of TVU use, while allowing more hotel units to be added in the non-resort zoned apartment district of Waikīkī?
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ownership which is another violation of the legal right of TVU unit owners in Waikiki resort zone who bought and own TVUs properties, when no such limitation was in the LUO.

7. The draft Bill also changes the definition of a TVU from 30 days or less to 180 days or less. That is not reasonable. TVUs (Transient Vacation Unit), by its name, are “transient” in nature and are meant to be a lodging option for visitors who come to Hawai‘i on a leisure or business trip lasting anywhere from one to 30 days. It is a rental for a “short term” such as a hotel who rents rooms on a nightly basis. Also, this would essentially change the long standing land use for all residential parcels across Oahu that allow 30-day minimum use. It creates an issue for people who rent out their units on a “month to month” basis. There are a lot of property owners who purchased property with the understanding they can rent the property on a month to month basis. True TVUs should remain 30 day or less rentals.

Mahalo for your consideration.

Adam Zarro

Sent from my iPhone

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21 AUG 18 PM 39

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-----Original Message-----

From: Les' ComcastAcct [mailto:lesr@comcast.net]

Sent: Wednesday, August 18, 2021 12:34 PM

To: Takara, Gloria C

Subject: Please Vote AGAINST STR change bill

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

Mr Lee or whomever it may concern,

My wife and I depend on the revenue from our STR to offset the Residential A property tax and high cost of living imposed on us owning a snowbird house in Kailua. We are off island 6 months a year. When we are, we rent our properly registered home for 30 days or more and pay our consequential taxes and insurance on time.

We've hired a team of people who depend on my job for a portion of their livelihoods.

The impact on our neighborhood is the same whether we are on or off island as the number of people, noise and cars associated with our house is the same.

Please don't destroy our snowbird dreams.

Les and Pat Rosenthal  
152A N. Kalaheo Ave.  
Kailua

253 225-3113

Sent from my iPhone

**From:** Gregory Rand [mailto:grandhawaii@icloud.com]  
**Sent:** Wednesday, August 18, 2021 1:21 PM  
**To:** Takara, Gloria C  
**Subject:** Opposing newly revised draft for Transient Vacation Rentals

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21 AUG 18 PM 3:39  
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To:

Brian Lee, Chair and Members of the Planning Commission

SUBJECT: Proposed Amendments to Chapter 21 (Land Use Ordinance [LUO]),  
Revised Ordinances of Honolulu (ROH) 1990, as Amended, Relating to Transient Accommodations.

Date: 8/18/21

Dear Planning Commission,

My family, neighbors & community oppose any further modifications to the STR existing bills that are ENOUGH. Please vote NO to the further draconian measures that really serve the pocketbooks of the American Hotel Association and Hotel Unions.

Enough is enough, and here on Oahu the Ordinances from just a couple years ago stopped so many violators that were not respecting the law nor paying their taxes. You have that in place without the graft given by those corporations not in Hawaii, nor the people of Oahu.

Please vote NO to any further changes.

Sincerely,

Greg GRand  
Honolulu, Hawaii, 93813

**From:** Vladimir Gurovich [mailto:vlad.gurovich@gmail.com]

**Sent:** Wednesday, August 18, 2021 1:35 PM

**To:** Takara, Gloria C

**Subject:** Objection to changing TVUs minimum rental period from 30 days to 180 days

CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

I have major concerns with DPP's latest proposed Amendments to Chapter 21 related to Transient Accommodations.

Raising the TVU limit to 180 days is unreasonable, as it effectively **eliminates the rental market for travelling nurses** in the midst of the worst surge of the worst pandemic Hawaii has ever experienced just as the hospital ICUs are filling up and current staff is overworked.

I own a condo in the Apartment Precinct of Waikiki Special District in a building that is zoned to allow 30-day minimum rentals. It is not considered a TVU because my rentals are more than 30 days. When I was looking for a condo 8 years ago, I specifically thought out both the condo and the zoning that would allow 30 day rentals.

Currently, as a property owner, it is **my right** to rent it out with a 30 days minimum.

The amendment as written is going to **take that right away from me without proper compensation** and I object to it!

When the **Land Use Ordinance** was enacted 4 decades ago, they grandfathered existing owners to allow them to continue renting through Non-Conformant Use certificates. I did not see any such plans in the current draft

If you want to change the definition of TVUs from 30 days to 180 days, there are only 2 options that you have:

- 1.
- 2.
3. Grandfather existing owners and allow them to operate less than 180 day rentals, which is a major
4. administrative and enforcement headache.
- 5.
- 6.
- 7.
8. Compensate existing property owners for taking that right away. Whats a reasonable compensation?
9. Opinions will vary, but for many it would be buying out their property at above market rate.
- 10.

**Please DO NOT change** the rental period of TVUS from 30 days to 180 days without grandfathering existing owners in.

Sincerely,  
Vlad Gurovich  
Owner of a condo in Waikiki Apartment Precinct

**From:** Wendy Chen [mailto:chenw5424@gmail.com]  
**Sent:** Wednesday, August 18, 2021 2:47 PM  
**To:** Takara, Gloria C  
**Subject:** Opposing DPP proposed STR bill

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21 AUG 18 PM 3:52  
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Aloha Mr. Brian Lee, and other members of Planning Commission,

I am deeply concerned about DPP's proposed amendment to LUO, which intends to eliminate legal TVUs in Waikiki Resort Zone, and change TVU definition from 30 day less to 180 day less.

1. I own a legal TVU in Waikiki resort zone. When I was looking for a property 7 years ago, I specifically looked for a legal TVU unit in the Waikiki resort zone after double checking the underlying land use for resort district in Waikiki. The TVU use is the primary component of my use right of the property. Now the amendment as written will take that right away from me without due process and or fair and proper compensation. This is a blatant violation of my property rights under US Constitution.

2. Proposing to change TVU definition from 30 day to 180 days is another example of violation of citizens' property rights. Many property owners bought the properties because they have the option of renting them for 30 days or longer. Their rights to rent for 30 days cannot simply be taken away by this amendment without due process or fair compensation.

**Additionally this change will effectively eliminate the rental housing options for travelling nurses or other health professionals who come to help us in the midst of the worst pandemic in history. Where would they stay if their only option is to stay at expensive hotels while on a 1.5-month assignment?**

3. Ordinance 19-18 that regulates short term rental was a huge public undertaking, that took multiple years to enact. My question is:

A. Why DPP did not raise the concern regarding of the impractical components of the ordinance during the lengthy review and hearing process that led to ordinance 19-18? Now two years after the passage of this ordinance, DPP is letting the public know it is unable to implement? Is that the best use of tax payers' money and resources?

B. DPP states that it is concerned about STRs impact on residential neighborhoods as it is inconsistent with land use that are intended for residential zone areas. We understand and support efforts addressing them. Any attempt to amend or change ordinance 19-18 should be focused on regulating STRs in residential neighborhoods. TVUs are only allowed in Waikiki resort zone and it should stay so.

Thank you.

**From:** David Courtney [mailto:david@cleanhalehawaii.com]  
**Sent:** Wednesday, August 18, 2021 2:43 PM  
**To:** Takara, Gloria C  
**Subject:** Proposed amendments to Chapter 21 (LUO)

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Dear planning commission members and anyone else this may concern. I am writing in regards to the drafted bill that will be put to vote to eliminate TVUs in Waikiki. I have spent the last 9 years building up a cleaning company that services short term rentals. We managed to survive Covid but if this bill passes and short term rentals are no longer allowed, my cleaning company (Clean Hale Hawaii) will be decimated and Myself along with my team of cleaners will be out of a job. I have worked incredibly hard to build the company up to where it is today and it will break my heart to have to shut it down and tell my team that I longer will have work for them. The economy on Oahu is built around tourism, and while I agree that there are at times too many people crowding areas, I don't think that eliminating TVUs all together is the answer. If this bill passes, many people are going to suffer consequences, including the families of the cleaners who depend on me for work. It was one of the hardest things I've ever had to when I had to lay everyone who worked for off due to covid and I really do not want to have those conversations again. Please consider altering the proposed bill to allow existing TVUs to continue to operate.

David

--

Thank you  
David Courtney  
Waikiki Cleaning Services  
808-777-9970

**From:** bill danyluk [mailto:billdanyluk@gmail.com]  
**Sent:** Wednesday, August 18, 2021 4:42 PM  
**To:** Takara, Gloria C  
**Subject:** Chapter 21 Amendments

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21 AUG 18 PM 5:00  
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Aloha Chair Brian Lee, and Members of the Planning Commission,

I have significant concerns regarding DPP's latest proposed amendments to Chapter 21 relating to Transient Accommodations. The core issue is that it proposes to eliminate TVUs in Waikiki resort district (Per Table 21-9.6(A) Waikiki Special District Permitted Uses), which have been permitted land use in Waikiki Resort district for decades. We find this elimination troubling and problematic.

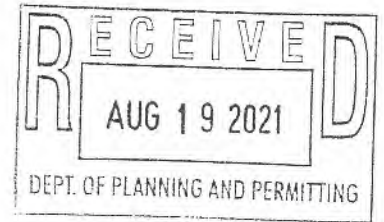
Resort district of Waikiki is where the legal TVU and B&B belongs, which is consistent with Waikiki special district's development plan. Any efforts to regulate STRs and reduce impacts on residential neighborhoods should be laser focused on addressing management of non-conforming use STRs in non-resort areas, and enforcement efforts on illegal STRs in residential districts. Properties within Resort Zones should not be impacted.

Please take the following points into consideration:

Disallowing TVUs in Waikiki Resort District contradicts DPP's stated goals and would break a promise to many many property owners.

Mahalo for your consideration.

Bill Danyluk



**From:** Tatiana Shevchenko [mailto:shevchenko.tatiana@gmail.com]

**Sent:** Thursday, August 19, 2021 6:49 AM

**To:** Takara, Gloria C

**Subject:** Objection to amendment of definitions of TVUs increasing rental period from "30 day minimum" to "180 day minimum"

CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

**Dear Gloria Takara,**

I would like to express my concerns with DPP's latest proposed Amendments to Chapter 21 related to Transient Accommodations.

I feel that raising the TVU limit to 180 days is unfair to the condo owners who paid the "top dollar" for their "Hotel zone condominiums" in Waikiki.

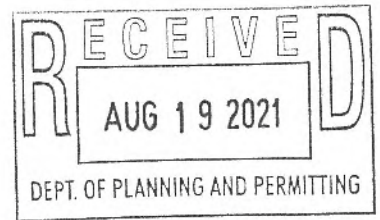
I own a condo in Waikiki (2140 Kuhio Ave) in a building that is zoned to allow 30-day minimum rentals. This is our primary residence and we are not renting the condo out at this moment. However, when I was looking for a condo a year ago, I specifically paid higher price for the condo in the zoning that would allow 30 day rentals. Since I wanted to make sure that I have the option to go somewhere for a month or two and rent out my condo to the travel nurse or other professional and save on a mortgage.

Currently, as a property owner, it is **my right** to rent it out with a 30 days minimum.

The amendment as written is going to **take that right away from me without proper compensation** and I object to it!

Please consider to Grandfather existing condo owners and allow them to operate less than 180 day rental possibilities. Otherwise I feel that this issue will bring a lot of discontent and disapproval from the people of Waikiki.

Sincerely,  
Tatiana Shevchenko  
Owner of a condo in Four Puddle.



**From:** Mahalo Azra [mailto:k642102932119@gmail.com]

**Sent:** Thursday, August 19, 2021 8:35 AM

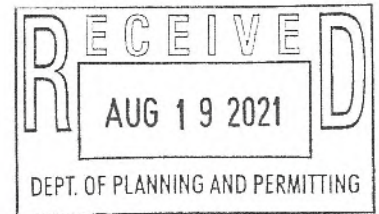
**To:** Takara, Gloria C

**Subject:** Why take out TVUs and only allow hotels in Waikiki and develop residential apartments in Waikiki into hotels

CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

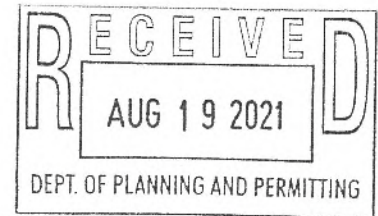
Seems like you are getting bribes (again) from a special interest group (hotels, etc). Your logic is flawed if that isn't the case, think about the optics.

**From:** SveaRietmiller@gmail.com [mailto:SveaRietmiller@gmail.com]  
**Sent:** Thursday, August 19, 2021 8:37 AM  
**To:** Takara, Gloria C  
**Subject:** How much did the hotels pay you?



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Seems as if this was bought. Not sure how you think having TVUs taken out of Waikiki will alleviate tourism pressure when all the apartments around Kuhio will be turned into hotels by outside investors.



**From:** Tua [mailto:tuaalohaa232@gmail.com]

**Sent:** Thursday, August 19, 2021 8:37 AM

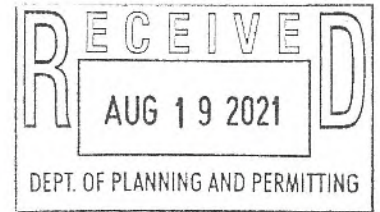
**To:** Takara, Gloria C

**Subject:** Did anyone read this?

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Explain your logic of giving hotels all the power and taking all rights from owners who run their own TVUs in Waikiki. Why not get rid of the NCU as well?

**From:** theodorhayenga27@gmail.com [mailto:theodorhayenga27@gmail.com]  
**Sent:** Thursday, August 19, 2021 8:39 AM  
**To:** Takara, Gloria C  
**Subject:** \*\* SPAM \*\* Think about if this passes



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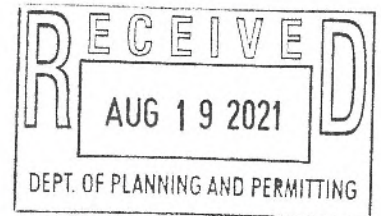
It will be so wild and outlandish that enforcement will be near impossible and collecting the outwardly fines will be impossible as well. It's almost better to have something like this bill pass because it will be so extreme no one will care and passing anything else after this will be impossible as well. It's almost better if they pass something like this. So this may backfire.

**From:** sinkfieldmarchello@gmail.com [mailto:sinkfieldmarchello@gmail.com]

**Sent:** Thursday, August 19, 2021 8:40 AM

**To:** Takara, Gloria C

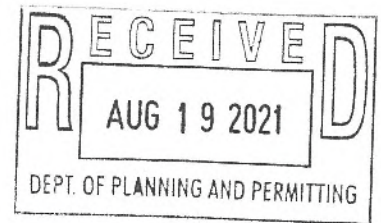
**Subject:** How much corruption is in DPP - figure anything they do can be fought in court anyways



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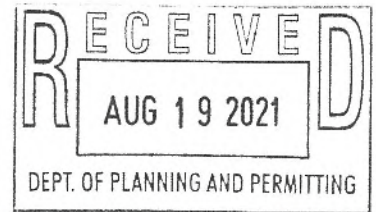
It wasn't only 5 people involved. Many others were involved as well.

**From:** Ohana! [mailto:proton.fury252@gmail.com]  
**Sent:** Thursday, August 19, 2021 8:41 AM  
**To:** Takara, Gloria C  
**Subject:** Why the new TVUs around the Gold Coast



CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

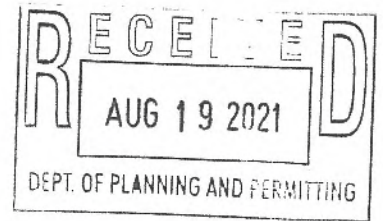
You know this is most residential and AOA that don't allow STR? What are you thinking?



**From:** thaleaboyde@gmail.com [mailto:thaleaboyde@gmail.com]  
**Sent:** Thursday, August 19, 2021 8:43 AM  
**To:** Takara, Gloria C  
**Subject:** More hotels and less residential apartment buildings around Kuhio

CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

Is that your solution to whatever problem you are trying to solve?



**From:** elainamalachowski@gmail.com [mailto:elainamalachowski@gmail.com]

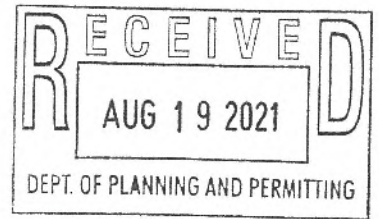
**Sent:** Thursday, August 19, 2021 8:45 AM

**To:** Takara, Gloria C

**Subject:** Lots of owners and voters have 2nd property TVUs in the Waikiki area

CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

You think that's fair. These are zoned for resort use yet you will only allow big companies (hotels) the Marriots etc to run business there. Same applies for no TVUs in hotels.



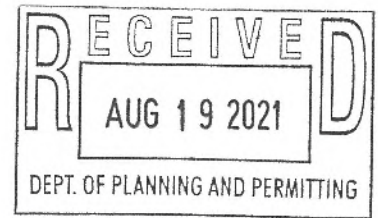
**From:** MalaHala [mailto:malahala1231@gmail.com]

**Sent:** Thursday, August 19, 2021 8:46 AM

**To:** Takara, Gloria C

**Subject:** \*\* SPAM \*\* Unless you do something fair and balanced in this bill this is very aparant the hotel industry threw a lot of money into this - not something DPP wants as we know its a corrupt ORG

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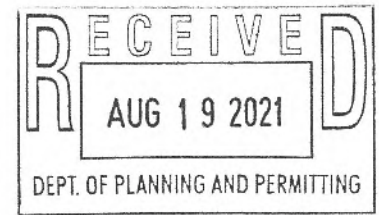
**From:** reevatoboz1@gmail.com [mailto:reevatoboz1@gmail.com]

**Sent:** Thursday, August 19, 2021 8:47 AM

**To:** Takara, Gloria C

**Subject:** \*\* SPAM \*\* How's about you talk to hosts and the STR industry before coming up with garbage like this

CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.



**From:** ColtiEng012@outlook.com [mailto:ColtiEng012@outlook.com]

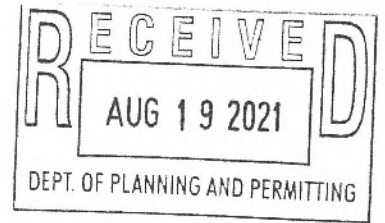
**Sent:** Thursday, August 19, 2021 8:48 AM

**To:** Takara, Gloria C

**Subject:** What do you have against TVUs in resort districts and hotels?

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Removing these from the tourism market won't do much as they will just be sent over to hotel pool and or made into a condo hotel. You better have a better argument or rationale.



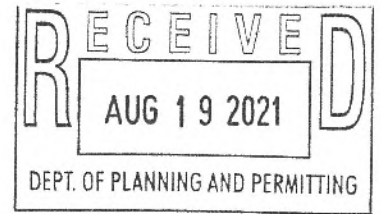
**From:** alohaspiritoceanbreeze@gmail.com [mailto:alohaspiritoceanbreeze@gmail.com]

**Sent:** Thursday, August 19, 2021 8:49 AM

**To:** Takara, Gloria C

**Subject:** \*\* SPAM \*\* Create a fair abd balanced bill and lower enforcement costs will enable easier enforcement and also guidance

CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.



**From:** lottekruschinski@gmail.com [mailto:lottekruschinski@gmail.com]

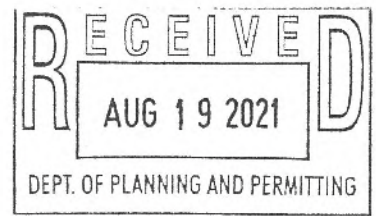
**Sent:** Thursday, August 19, 2021 8:51 AM

**To:** Takara, Gloria C

**Subject:** \*\* SPAM \*\* You'll never get Airbnb or VRBO on board with this type of bill

CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

They ar the gatekeepers better to have them on your side when you think about it right?



**From:** Phone Bin  [mailto:info@phonebin.org]

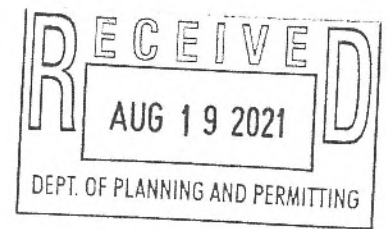
**Sent:** Thursday, August 19, 2021 8:50 AM

**To:** Takara, Gloria C

**Subject:** Large 25K fees won't do much - it doesn't scare people and its a hell of a lot harder to collect on  
- look at your stats

CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.





**From:** hi bags [mailto:info@hibags.jp]

**Sent:** Thursday, August 19, 2021 8:52 AM

**To:** Takara, Gloria C

**Subject:** Think about how slanted this memo is, throw the other side a bone, that's how politics works

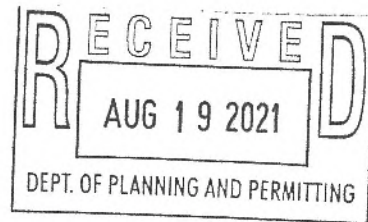
CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

Bribery shouldn't be part of politics.

--



Made in Hawaii



**From:** CheyenneBornscheuer@gmail.com [mailto:CheyenneBornscheuer@gmail.com]

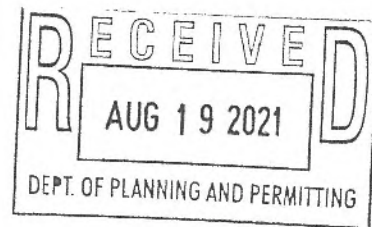
**Sent:** Thursday, August 19, 2021 8:53 AM

**To:** Takara, Gloria C

**Subject:** This about the voters and who this would upset and who it would make happy

CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

Waikiki resort zones and tourism - think about it.



**From:** 🏠 BnB Claims [mailto:help@bnb.claims]

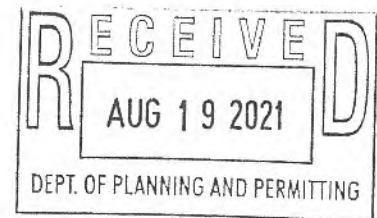
**Sent:** Thursday, August 19, 2021 8:42 AM

**To:** Takara, Gloria C

**Subject:** Probably around 8k plus TVUs in Waikiki alone in resort districts.

CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

Have you thought about the power vacuum in cash from TAT that you will lose from all of these TVUs going away? Also think about how many more hotels will have to be built in the mixed used apartment district forever changing the landscape of the residential walk ups in that area. What is really going on here?



-----Original Message-----

From: Farrah Larson [mailto:northshore198@gmail.com]

Sent: Thursday, August 19, 2021 8:52 AM

To: Takara, Gloria C

Subject: New bill for existing TVU

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

As a grandfathered TVU with a current valid NUC in good standing, I'm asking that you remove the section in the bill raising our property tax rate to the resort rate. We already pay almost 15% taxes and the additional property taxes will bring an unnecessary hardship to us who have already been running legally. We budgeted accordingly when we purchased our unit and purchased a legal TVU knowing what the costs and fees would be.

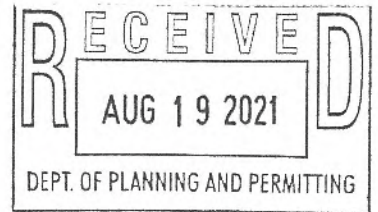
The new TVUs knew they were running illegally and purchased knowing there was a chance they would get shut down or have new fees if they were allowed to become a TVU. We however did not anticipate this when purchasing.

We paid an additional premium for our condo for this legal NUC with the understanding of the law and fees that came with it. It is unfair to change these taxes on us due to the new TVU rules. We should be rewarded for being legal and in good standing, not punished!

Thank you for your consideration.

Regards,

Jay and Farrah Larson



**From:** christinhallmann95@gmail.com [mailto:christinhallmann95@gmail.com]

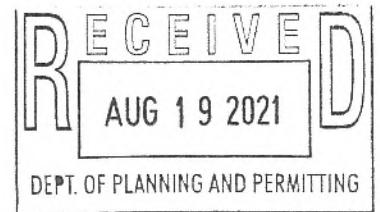
**Sent:** Thursday, August 19, 2021 8:55 AM

**To:** Takara, Gloria C

**Subject:** \*\* SPAM \*\* As an STR owner having this pass would not be a bad thing

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The way this was written is so crazy and out of this world, enforcement will be nill and there won't be any teeth. Any future bills passed will have to patch it up and the little credibility DPP had before the bribes and then after this Bill will be ZERO.

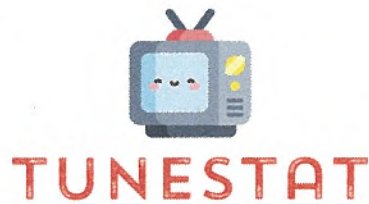


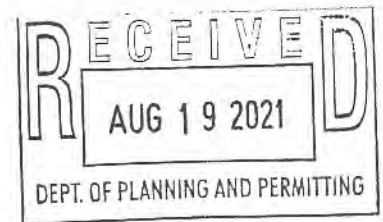
**From:** TuneStat [mailto:demos@tunestat.com]  
**Sent:** Thursday, August 19, 2021 8:57 AM  
**To:** Takara, Gloria C  
**Subject:** Hotels OK and TVUs not?

CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

Please help explain. The fabric of the STR market is too strong in Waikiki.

--





**From:** jillpaulin@gmail.com [mailto:jillpaulin@gmail.com]  
**Sent:** Thursday, August 19, 2021 8:59 AM  
**To:** Takara, Gloria C  
**Subject:** Opposition to LUO Amendments

CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

Aloha Gloria,

I am very disappointed in the DPP's proposal to amend the LUO. There are several elements that I feel are very unfair to those that are involved in the either the STR or monthly rental business. Like everyone, we have struggled through the pandemic. There has been no relief for landlords. This proposed legislation changes the rules once gain. I can't imagine being in another line of work where the rules changed so often, threatening one's income.

Here are my concerns:

- Changing the STR definition to 180 days and less: I rent 2 properties for 30 day minimum. I also have long-term rental properties. Many of my 30+ day tenants are on the island for work (ie; engineers working on the wind turbines, traveling nurses). I have also rented to residents that need to vacate their homes temporarily for various reasons including floods. TAT and GE taxes are paid on these stays. This change would be one of the first in the nation to say that renters must rent for a minimum of 180 days. It really makes no sense.
- Changing NUC TVU's property tax rate to that of the Hotels: I fought hard a year and a half ago to stop this change. City Council approved allowing NUC's to keep their grandfathered property tax category. The Property Tax commission also agreed with us that hotels have completely different economics (food/ alcohol sales, restaurants, etc.) that allow them to afford the higher tax basis. They are also subject to very different building requirements that allow for density and small footprints. It is not fair to have TVU's such as Kuilima Estates taxed as a hotel when they are subject to different building regulations and limited on the variety of revenue sources.
- Registration Fees for TVU's: This appears to be one more thing to try and put TVU's out of business (led by the Hotel industry). Most of the TVU's are not run by corporations who can afford to contribute year-after-year to our politicians. Do the Hotels pay a registration and annual fee for each room?

I'm sure you'll hear from others regarding the proposal that the hotels must manage the TVU's. This is also outrageous.

Please keep in mind that these TVU's are the only income for many local residents. We live here, pay honest wages and spend our income here on the island. The hotels are

owned by corporations that pay minimum wage and do not put the net income back into our economy. We are smaller, but we should also have a voice.

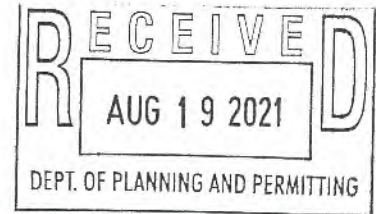
Lastly, please consider if someone changed your income or the terms of your employment every year. It is very, very stressful in a time when we are barely making it.

Thank you for your consideration.

Jill Paulin  
Haleiwa, HI



Virus-free. [www.avast.com](http://www.avast.com)



**From:** May Akamine [mailto:may.m.akamine@gmail.com]  
**Sent:** Thursday, August 19, 2021 9:01 AM  
**To:** Takara, Gloria C  
**Cc:** info@rentresponsibly.org  
**Subject:** Fwd: !!Email Planning Commission

CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

Aloha Planning Commission -

Please reconsider the proposed 180-day minimum stay. With the ongoing health care crisis, Fly-In Nurses are CRITICAL to provide this URGENT needed services. They need short-term rentals and 180 days may not be doable as some are on a month-to-month contract. Plus, many prefer living in the communities near to the hospitals/clinics rather than hotels. Rentals (30-days) are their solution. Mahalo for your kokua to ease the need for nurses and solve their housing dilemma.

Take care. Stay safe. A hui hou!

Aloha -

May Akamine, RN, MS

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Begin forwarded message:

**From:** OSTR A <[info@rentresponsibly.org](mailto:info@rentresponsibly.org)>  
**Subject:** !!Email Planning Commission  
**Date:** August 19, 2021 at 8:29:12 AM HST  
**To:** <[may.m.akamine@gmail.com](mailto:may.m.akamine@gmail.com)>  
**Reply-To:** OSTR A <[info@rentresponsibly.org](mailto:info@rentresponsibly.org)>

[View this email in your browser](#)



## UPDATE:

STR Ordinance Draft to be Discussed Tomorrow!

**Email Your Comments to Planning  
Commission Today**

## Draft Memo Set to be Discussed Tomorrow—Send Comments to Planning Commission

The Honolulu Department of Planning and Permitting (DPP) released a draft memo proposing amendments that will directly affect short-term rentals. **This draft will be possibly discussed TOMORROW to be added to the Wednesday, Sept. 1 agenda.**

### What the Draft Includes:

- The 30-day minimum stay will be adjusted to 180-day minimum stay
- Waikiki Resort Zone TVUs will be eliminated
- Only hotels will be able to operate within the Resort Zone

### Call to Action:

- Email your comments to the Planning Commission at [gtakara@honolulu.gov](mailto:gtakara@honolulu.gov) before Friday.
- **Read the draft**
- Keep an eye out for more details to come
- **Save the date for the 9/1 public hearing**

[Email Plan Commission](#)

[Read the Draft](#)

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## Stay Updated—Join the OSTRA Facebook Group

To stay updated on the latest going on in Oahu and with the STR community, join our private Facebook group.

[Join the OSTRA Facebook Group](#)

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OSTRA Oahu-only List

**Our mailing address is:**

Oahu Short-Term Rental Alliance

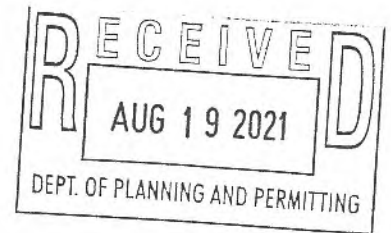
6709 East Park Drive

Fort Worth, TX 76132

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-----Original Message-----

From: Elaine Davis [mailto:elainemaedavis@gmail.com]

Sent: Thursday, August 19, 2021 9:02 AM

To: Takara, Gloria C

Subject: STR

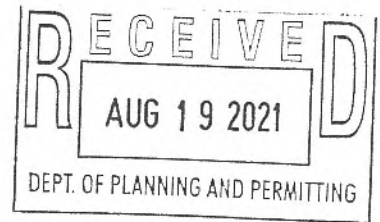
CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

Good day,

I'm writing to you as an owner of a LEGAL short-term rental in Waikiki. We are doing everything by the book so it is frustrating to think the counsel is wanting to take this away. We rely on the income to cover the mortgage. In my opinion, it's fraudulent for Bill 89 to pass and then to try to further restrict good owners from operating their units. This is blatant work of the hotel lobby and it would not go unnoticed. Further, Hawaii has so many other issues that need addressing like homelessness and infrastructure. Time should be spent on work with added value. Tourism will not go away, but you can limit to areas like Waikiki which is exactly what has already passed with Bill 89. Do the right thing and stop the insanity with blaming everything on all short-term rentals.

Sincerely,  
Elaine Andrews

Sent from my iPhone



**From:** GotToGet Tickets [mailto:info@gottogettickets.com]

**Sent:** Thursday, August 19, 2021 9:03 AM

**To:** Takara, Gloria C

**Subject:** You Cannot add to the Sept 1 agenda

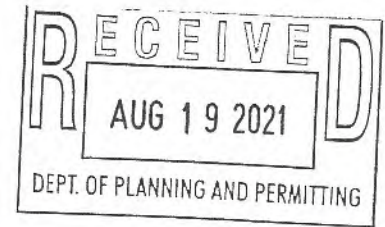
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You need to talk to the community and STR hosts and guests about this first. This will be shut down hard in the council and any further iterations will be weakened. Step in with your best foot forward and put some more thought into this

--

GotToGet Tickets  
1200 S. Harbor Blvd. Suite #202  
Anaheim, CA 92804  
Call Toll-Free: 1-888-789-8555  
**GotToGetTickets.com**

**From:** crjjsp@gmail.com [mailto:crjjsp@gmail.com]  
**Sent:** Thursday, August 19, 2021 9:08 AM  
**To:** Takara, Gloria C  
**Subject:** STR Ordinance Draft



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To whom it may concern

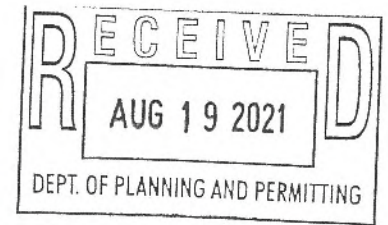
The draft regarding short term rentals to be discussed tomorrow is so short-sighted and would cause dire consequences for many property owners and the population.

It would eliminate housing for students who come for only a semester. It would cause ohana that want to visit for shorter time periods to not be able to travel from the mainland because Waikiki hotels would be too expensive and too far away. It would cause a loss of jobs for those that service shorter term rentals, including cleaners and maintenance, and it would cause a huge loss in revenue because a 180 day rental pays no transient accommodation taxes.

Please carefully consider what would happen to an already fragile economy if this plan is implemented.

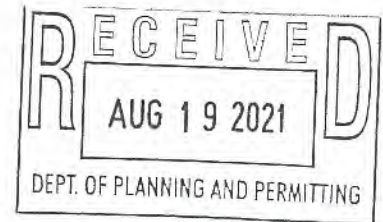
Mahalo,  
Kathy Ochsenbein  
Makaha

**From:** Lillie McAfee [mailto:lilliemcafee@gmail.com]  
**Sent:** Thursday, August 19, 2021 9:14 AM  
**To:** Takara, Gloria C  
**Subject:** DPP PROPOSAL ON TVUs



CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

Good luck exporting pineapples, bananas, and mangoes--watch to see how much of the millions in tax money that TVUs bring into Oahu's economy, is recovered by fruit exporting.



**From:** Judy Dancer [mailto:alohajudy13@gmail.com]  
**Sent:** Thursday, August 19, 2021 9:13 AM  
**To:** Takara, Gloria C  
**Subject:** RENTALS for more than 30 days??????? OMG

CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

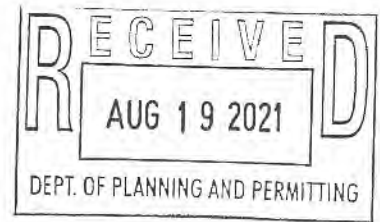
**PLEASE DO NOT CHANGE THE CURRENT STATIS OF MINIMUM 30 DAY RENTALS.** As a senior I stopped doing vacation rentals. long ago...now I have some couples and an occassional family who come to my my place in Kailua and stay for month with their computers. Their offices are closed in the Mainland and they come here to work...they shop at for food at our grocery stores, they spend \$\$\$ in our community. It is not Waikiki where the tourists have bombarded the state...My guests are vaccatined. and show proof.... thye are quiet, they rent a cars, and the State and City get Tax money like 13.96% from every guest. **This is will be GONE...if you stop 30 day rentals.**

**Tourisrm is our State business....30 day minimum is perect....no bother to anyone..just nice people staing in Hawaii mostly to work.... and spend money in our economy.**

**I am retired, and this little place attached to my home is how I survive in Hawaii...NO ONE WILL COME FOR 6 MONTHS.....30 days is perfect**

**Mahalo Nui Loa,**

**Judy Dancer**  
**[AlohaJudy13@gmail.com](mailto:alohajudy13@gmail.com)**



-----Original Message-----

From: pgoodwinii@msn.com [mailto:pgoodwinii@msn.com]

Sent: Thursday, August 19, 2021 9:14 AM

To: Takara, Gloria C

Subject: New amendment to bill 89

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

Aloha to whomever is reading this from DPP. I'm a homeowner living in the 6th district and I'm writing to let you know that I disapprove of the new restrictions that are being proposed for B&B's.

While waiting for approval of Bill 89 I've complied with the regulations set forth by the council including limiting stays to a minimum of 30 days, registering my home with a TAT license number, as well as showing my home's tax map key number. What I've found is contrary to the proposal of the DPP. I've had 5 families stay with me for a month while seeking long term stays during their transition from the mainland to Oahu. Two of those families were military with pets. These families weren't reimbursed for staying at our home because the military doesn't approve of B&B's for temporary housing and most hotels won't allow pets. The other three families have all been able to find long term housing within the 30 days that they've stayed here. I've also had a mother stay here for two months while helping her son get his restaurant business up and running. These have all been positive results for families here on Oahu.

The benefit for our family was that we didn't need to rely on government assistance during the pandemic. It allowed us to have a small income while I (the sole provider of our family) was unemployed. I never needed to get mortgage relief as a result of my B&B.

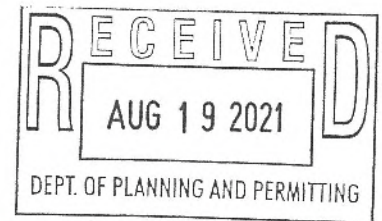
I do support most of what is being proposed in Bill 89. Allowing B&B's to get top priority over SVU's is paramount in keeping the income earned in our economy and not letting go overseas or to the mainland. I was a part of the virtual meeting that took place on April 6th, where the people spoke about the benefits of B&B's and the danger of limiting them to being at least 1000 feet apart. It seemed like we were heading in the right direction. This new proposal would eliminate a significant portion of my family's income. Income that is used to send my kids to gymnastics, jiu-jitsu, Wet n Wild, Aulani, etc. It would also limit our ability to buy fresh produce and fish from the local markets or to support locally owned restaurants and retailers.

Mahalo

Paul Goodwin and the rest of our Ohana

Keo, Conner, and Cody.

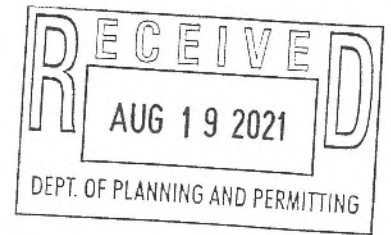
Sent from my iPhone



**From:** JIM haas [mailto:haas32@msn.com]  
**Sent:** Thursday, August 19, 2021 9:19 AM  
**To:** Takara, Gloria C  
**Subject:** Vacation Rentals

CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

[illegible]



-----Original Message-----

From: Ken Kribel [mailto:kkribel@icloud.com]

Sent: Thursday, August 19, 2021 9:23 AM

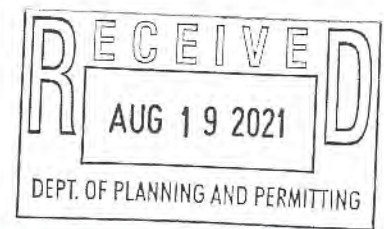
To: Takara, Gloria C

Subject: STR Ordinance

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

I completely object to the new STR ordinance that is being proposed. People in Hawaii have suffered enough and an ill conceived proposal like this will add to suffering, it will not help heal anything. Show some compassion.

Ken Kribel



**From:** Francisco Arango [mailto:farango@gmail.com]  
**Sent:** Thursday, August 19, 2021 9:25 AM  
**To:** Takara, Gloria C  
**Subject:** STR draft proposal

CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

Mr. Lee,

I see the biggest problem locals have with tourism is the fact that they are getting a very small portion of the tourism pie. Your proposal would only exacerbate the root cause of the anti-tourism feelings. I ask you to make a meaningful attempt to allow a clear path for locals to have an opportunity to capture a large and meaningful portion of the tourism dollars. The people who will be most responsible for their guests are likely to be locals and not foreign out-of-state owned corporations.

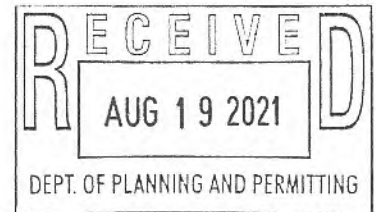
As an STR host living in Palolo I was able to afford pre-school and still have time to be with my kids because of the income I was able to capture by renting an additional dwelling unit attached to our home. A phenomenal way to strengthen families in Hawaii is to let them make meaningful income from tourism.

In addition to diverting more of the income away from the foreign owned hotels, community short term rentals get people to patronize locally owned restaurants and shops. Most shops and restaurants in the resort areas are also owned by foreign out-of-state corporations.

Many homes in Hawaii are second homes, by limiting the ability for those owners to rent their place out for a minimum 180 days you are making them stay empty. Empty properties means that no one will be there to spend money at local grocers, restaurants and retailers. We don't want a situation where local businesses have no one to sell to because the 2nd home is being forced to stay empty. Empty properties are also susceptible to vandalism.

Many areas around the country have figured a way to mitigate nuisance properties by fining the actual people causing the disturbance. Let's figure out a way where we can mitigate nuisance properties while also giving locals a bigger piece of the tourism dollars so that life can be more affordable for locals.

Francisco Arango



-----Original Message-----

From: Bob Newell [mailto:bobnewell@bobnewell.net]

Sent: Thursday, August 19, 2021 10:19 AM

To: Takara, Gloria C

Subject: Proposed new rental ordinance would evict seniors from their homes

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

Dear sir,

I have much concern about the following proposed regulation which is part of DPP's new proposed STR regulations.

SECTION 14. Chapter 21, Article 5, Revised Ordinances of Honolulu 1990, as amended, is amended by adding a new Section 21-5.360.1 to read as follows: "Sec. 21-5.360.1 Condominium hotels. Units in a condominium-hotel must be part of the hotel's room inventory, available for rent to the general public. The use of a condominium-hotel unit as a primary residence or usual place of abode is not allowed."

There are many of us, a large number of whom are seniors, who under this ordinance would be displaced from our homes. I am age 72 and live in the Waikiki Banyan and have done so for over 11 years. Where would I go? The economic and social impact would be horrible.

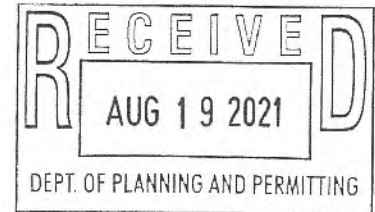
Thank you for your attention,

--

Bob Newell  
Honolulu, Hawai'i

Via Linux/Emacs/Gnus/BBDB.

**From:** john Mair [mailto:mammothjohn@yahoo.com]  
**Sent:** Thursday, August 19, 2021 10:35 AM  
**To:** Takara, Gloria C  
**Subject:** Waikiki STR Ordinance..

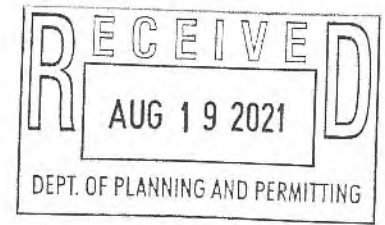


CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

Aloha,

I'm writing in opposition to the proposed ordinance regarding STR's in the Waikiki area. As you are well aware, Waikiki is one of if not the busiest tourist destinations in the world. The elimination of all STR's is counter-productive to our history and our business plan for those of us depending on the industry for our living. Please be reasonable, NOBODY wants to eliminate all STR's, only those in the quiet residential areas that are affected by the traffic and noise. Waikiki was designed and built for tourism so let's welcome visitors to the areas and benefit from a more controlled environment. All areas from the Ala Wai to the ocean should be included, instead of the arbitrary, hotel-favored map that was introduced.

Thanks,  
John Mair  
[mammothjohn@yahoo.com](mailto:mammothjohn@yahoo.com)



**From:** Leo Vlachakis [mailto:leonidasvlachakis@gmail.com]  
**Sent:** Thursday, August 19, 2021 10:40 AM  
**To:** Takara, Gloria C; info@rentresponsibly.com  
**Subject:** Draft Memo Proposing Amendments

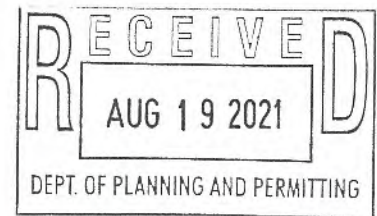
CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

Aloha Planning Commission,

This email is about the STR Ordinance Draft to be discussed tomorrow adjusting the 30-day minimum stay to a 180-day minimum stay. We provide short term housing to travel nurses that are usually on 13 week assignments. During these unprecedented trying times, the need for short term housing outside of vacation destination areas has been necessary. Many traveling nurses seek accommodations that are close to their hospital and within the community and not in hotels. Most traveling nurses are seeking stays that would not be possible with the 180-day minimum stay requirement that is proposed. This draft would be detrimental to the needs of nurses and other health professionals on these essential assignments. Please reconsider the proposal taking these factors into consideration before adjusting the minimum stay requirement. Thanks for your time and consideration.

Respectfully yours,

Leo Vlachakis  
Ewa Beach



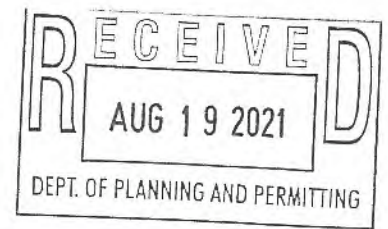
**From:** nbfb2@aol.com [mailto:nbfb2@aol.com]  
**Sent:** Thursday, August 19, 2021 11:00 AM  
**To:** Takara, Gloria C  
**Subject:** STR from Kamaaina and Tourist

CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

Dear Sir. Does Hawaii have a death wish? Do the hotels and hotel unions think those tourist that stay in B&Bs and TVUs will go to Waikiki? It will never happen . They will just go elsewhere. And take their money with them. The harm to small business and Honolulu income will be immense. There are presently ample restrictions in place. The present anti tourist emotion will cease when the economy goes "kaput".

Respectfully Submitted,

Norman Burger Stamford, Ct. Kamaaina and now a tourist



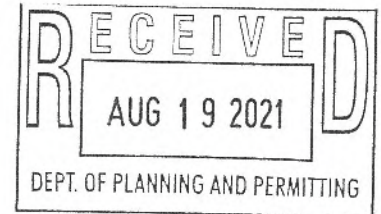
**From:** Lisa Vlachakis [mailto:[lisavlachakis@outlook.com](mailto:lisavlachakis@outlook.com)]  
**Sent:** Thursday, August 19, 2021 11:22 AM  
**To:** Takara, Gloria C  
**Subject:** Email Planning commission

CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

Aloha,

I'm writing to ask that you please reconsider the proposed 180-day minimum stay for rentals. This will gravely affect traveling professionals including nurses, who need housing while taking contracts on our island. They typically have 13-week contracts and would not meet the 180-day minimum requirement. I understand the need for cutting back on true vacation rentals (less than 30 days) in residential neighborhoods, but our traveling professionals are here because there is an unmet need in the community. They are here to work and contribute. Often, they are on call and need to be within 30 minutes of the hospital. My property is near Queen's Medical Center West Oahu. I recently listed my property and get 2-3 inquiries a week. Hotels do not necessarily meet the needs of these travelers. Some travel with a partner, family, or pet, and they don't want, or can't afford, to stay in a hotel for 3 months. With the ongoing Covid crisis, now is not the time to decrease available housing for those who provide critical care to our community.

Mahalo for your kokua,  
Lisa Vlachakis



**From:** Kate Yanov [mailto:kateyanov@gmail.com]  
**Sent:** Thursday, August 19, 2021 11:34 AM  
**To:** Takara, Gloria C  
**Subject:** Oppose Bill 89

CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

Dear City Planning Commission Members:

I strongly oppose Bill 89 and have attached my testimony letter.

I would like it read out loud during the hearing.

--

Cheers,

Kate Yanov  
+1 510.676.4500

19 August 2021

Department of Planning and Permitting  
Attn: Brian Lee  
650 S. King St, 7th Floor  
Honolulu, HI 96813

Dear Planning Commission Members,

I'm writing this letter to strongly oppose Bill 89.

I've attached the proposed Bill demonstrating pages and pages of highlighted sections favoring only the Hotel industry and not property owners like myself.

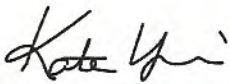
It is clear the Hotel Industry has deep pockets and has had a historical influence in how zoning, permitting & planning is carried out. The city and county must act on this imbalance in regulation and oppose favoring the hotels.

This bill also infringes on the **Federal Property Ownership Fairness Act: Protecting Private Property Rights, specifically, "Taking Property Rights Through Overregulation."** I've included documentation mentioning how the city would be financially liable should my property values decrease due to overregulation.

This is an immoral bill and frankly an embarrassment of time used by the Department of Planning & Permitting when we are in the middle of a deadly pandemic.

Please oppose Bill 89 and use the city and county money where it matters, taking care of it's residents, not furthering hotel profits.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kate Yanov'.

Kate Yanov  
[kateyanov@gmail.com](mailto:kateyanov@gmail.com)  
Homeowner, Honolulu

Authorization: Dean Uchida, Director  
Advertisement: August 20, 2021  
Public Hearing: September 1, 2021

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET, 7<sup>TH</sup> FLOOR • HONOLULU, HAWAII 96813  
PHONE: (808) 768-8000 • FAX: (808) 768-6041  
DEPT. WEB SITE: [www.honoluluapp.org](http://www.honoluluapp.org) • CITY WEB SITE: [www.honolulu.gov](http://www.honolulu.gov)

RICK BLANGIARDI  
MAYOR



DEAN UCHIDA  
DIRECTOR

DAWN TAKEUCHI APUNA  
DEPUTY DIRECTOR

EUGENE H. TAKAHASHI  
DEPUTY DIRECTOR

August 13, 2021

**MEMORANDUM**

TO: Brian Lee, Chair  
and Members of the Planning Commission

FROM: Dean Uchida, Director  
Department of Planning and Permitting

SUBJECT: Proposed Amendments to Chapter 21 (Land Use Ordinance [LUO]),  
Revised Ordinances of Honolulu (ROH) 1990, as Amended, Relating to  
Transient Accommodations

A handwritten signature in black ink, appearing to read "Uchida", is written over the "FROM" line.

Digitally signed by  
Uchida, Dean  
Date: 2021.08.13  
12:48:13 -10'00'

The Department of Planning and Permitting (DPP) is pleased to submit for your review and appropriate action the Department's report and draft bill proposing amendments relating to Transient Accommodations.

The proposal would amend specific sections of the ROH (Chapters 8 and 21) relating to transient vacation units (TVU), bed and breakfast (B&B) homes, and hotels as summarized below:

1. Chapter 8, Real Property Tax, ROH
  - B&B properties, including B&Bs with nonconforming use certificates, will be placed in the B&B Home tax category.
  - TVU properties, including TVUs with nonconforming use certificates, will be placed in the Hotel and Resort tax category.
2. Chapter 21, LUO, ROH
  - Administrative enforcement procedures have been updated.
  - Up to \$3,125,000.00 in real property taxes collected relating to TVUs and B&Bs will be deposited into a special account to be used by DPP for the enforcement of TVUs and B&Bs.
  - Application, registration, renewal and revocation processes for B&Bs and TVUs have been updated.

Memorandum to Brian Lee, Chair  
and Members  
August 13, 2021  
Page 2

- Amendments to the Master Use Table would eliminate B&Bs and TVUs as a permitted use in every land use category except for certain areas in the A-1 and A-2 apartment districts located in or near existing resorts.
- Amendments to the Master Use Table would allow hotels, condominium hotels and hotel units in the Apartment Precinct and Apartment Mixed Use Precinct of Waikiki.
- Development standards and definition for hotels have been updated.
- Development standards for B&Bs and TVUs have been updated.
- Definition of B&Bs and TVUs have been updated to a minimum duration of less than 180 consecutive days.
- Definition and requirements for advertisement have been updated.

Attached you will find our staff report and draft bill for your consideration. We will be happy to answer any questions that you may have concerning this matter during the Public Hearing.

Attachments

**ADMINISTRATION INITIATED LAND USE ORDINANCE AMENDMENTS  
RELATING TO SHORT-TERM RENTALS AND TRANSIENT ACCOMMODATIONS,  
POST COVID-19**

**Staff Report**

**August 13, 2021**

**I. BACKGROUND**

On June 25, 2019, Mayor Kirk Caldwell signed into law Ordinance 19-18 (Bill No. 89, 2018, CD2) Relating to Short-Term Rentals (STR), which would in part allow more bed and breakfast homes (B&Bs) throughout the Island, including residential neighborhoods. Prior to full implementation of Ordinance 19-18, the City along with the rest of the world was disrupted by the shut-down of normal day-to-day activities due to the worldwide Covid-19 pandemic.

Neighborhoods began to see what life was like before the proliferation of STRs throughout their neighborhoods. Traffic, crowding, tourists invading residential neighborhoods, and noise at all hours of the day that were typical issues created in part by STRs, disappeared during the pandemic lock down.

In addition, residents across the state realized what life was like before millions of visitors started coming to Hawaii. No or very little traffic, wide open beaches and trails, and less people in general were “benefits” of the shut-down. While the visitor industry is a main driver of Hawaii’s economy, discussions have begun on how we might limit the number of visitors to Hawaii. Ten million (10,000,000) visitors annually has become too much.

The pandemic caused us to take a closer look at Ordinance 19-18, which would allow a limited number of new B&Bs and require compliance with registration requirements, development standards, and other regulations. However, some of the provisions in Ordinance 19-18 would be impractical to implement and have resulted in enforcement problems. To address these issues, we believe it is necessary to improve upon Ordinance 19-18 by simplifying the City’s approach to regulating STRs and other transient accommodations.

STRs are disruptive to the character and fabric of our residential neighborhoods. They are inconsistent with the land uses that are intended for our residential zoned areas, they decrease the supply of long-term housing for local residents throughout the City, and increase the prices and rents of housing, making living on Oahu less affordable for its resident population. Any economic benefits of opening-up our residential areas to tourism are far outweighed by the negative impacts on our neighborhoods and local residents.

The purpose of this Ordinance is to better protect the City's residential neighborhoods and housing stock from the negative impacts of STRs by providing a more comprehensive and controlled approach to the regulation of STRs within the City and creating additional sources of funding for the administration and enforcement of the City's B&B and transient vacation unit (TVU) laws.

## II. ANALYSIS

The proposed amendments are essentially a "policy pivot" to redirect the STR Ordinance in a different direction. The two overall goals of this policy pivot are to:

1. Reduce impacts on residential neighborhoods; and
2. Regulate STRs that are permitted only in or adjacent to existing resort areas.

In order to accomplish these goals, the amendments to the ordinance will do the following:

- Provide greater enforcement tools over illegal and non-compliant STRs.
- All existing non-conforming B&Bs and TVUs will continue, provided the units are registered, pursuant to the Ordinance.
- No new B&Bs and TVUs will be allowed or permitted in Residential Zoned areas.
- New B&Bs and TVUs will only be allowed in areas adjacent to and associated with existing Resort zoned property, specifically in the A-2 medium-density apartment zoning district located in the Gold Coast area of the Diamond Head Special district and in the A-1 low-density and A-2 medium density apartment zoning districts located adjacent to the Ko'Olina and Kuilima resort areas.
- All STRs will be required to include their certificate of registration number or their nonconforming use certificate number in all advertisements; any advertisement of a property for use as a B&B or TVU without such registration number is a violation.
- Hotels, condominium hotels and hotel units will be newly defined and added as a permitted use subject to development conditions in the Apartment Precinct and Apartment Mixed Use Precinct of Waikiki.
- All registered existing non-conforming and newly permitted TVUs are to be assessed at the hotel and resort rate for real property tax purposes.

- All registered existing non-conforming and newly permitted B&Bs are to be assessed at the B&B home rate for real property tax purposes; consistent with the requirement that the owner of the B&B must live at the B&B, all B&Bs owners must obtain the home exemption for real property tax.
- All new B&Bs and TVUs must have and keep current general excise and transient accommodations tax licenses, and must maintain a minimum of \$1,000,000.00 in commercial general liability insurance at all times, for their unit.
- The current update of the Primary Urban Center will allow for Resort Zoning for individual properties located along the "Gold Coast of Waikiki,"--the area makai of Kapiolani Park -- so that owners in this area will be able to up-zone their property to the resort district.
- Provide annually to the Department up to \$3,125,000.00 in real property taxes from registered B&Bs for the purposes of funding enforcement of STRs.
- The definitions of "bed and breakfast home" and "transient vacation unit" are amended to increase the rental period for TVUs or B&Bs from less than 30 days to less than 180 days.
- The Department of Planning and Permitting's (DPP) violation enforcement procedures have been overhauled in order to better equip DPP's inspectors to investigate and enforce violations of the Land Use Ordinance, including the provisions related to STRs.

### III. RECOMMENDATION

Amendments to the different Chapters of the Revised Ordinances of Honolulu (ROH), based on Ordinance 19-18, will be as follows by Chapter:

#### A. Amendments to ROH Chapter 8 Real Property Tax

Changes to the ROH Chapter 8 will place B&Bs and TVUs into the appropriate real property tax category. B&B properties, including B&Bs with nonconforming use certificates, will be placed in the B&B home tax category. TVU properties, including TVUs with nonconforming use certificates, will be placed in the Hotel and Resort real property tax category, as they are operating similar to hotels/resorts.

#### B. Amendments to ROH Chapter 21 administrative enforcement, depository of fees, civil penalties and real property taxes collected relating to B&B homes or STRs.

Administrative enforcement tools are created and amended to better enforce land use regulations including: making owners, persons in possession or control of the premises,

and persons who cause, contribute to, or benefit from a violation liable, and potentially joint and severally liable, for such violation; clarifies service of process for violations, orders, and appeals; increase fines up to \$25,000 per violation and \$25,000 per day for each day a violation remains uncorrected; requires the violator to send a written notification to the director reporting the correction of the violation when cured; authorizes the director to enter into consent orders and issue orders to show cause to ensure compliance by violators; and creates additional daily fines in an amount up to the highest daily rate at which a B&B or TVU has been advertised or offered for rent.

Directs up to \$3,125,000.00 collected in real property taxes by the City for the B&B tax classification to be deposited annually into a special account of the general fund to be used by the DPP to fund expenses relating to establishing a new STR Enforcement Branch within DPP.

Amendments to the Master Use Table would eliminate B&Bs and TVUs as a permitted use in every land use category except for certain areas in the A-1 and A-2 apartment districts located in or near existing resorts. Areas where new B&B and TVU operations are permitted are identified as follows:

1. A-1/A-2 apartment zoning district near Kuilima Resort, as shown on Exhibit A to the draft ordinance;
2. A-1/A-2 apartment zoning district near Ko'olina Resort, as shown on Exhibit B to the draft ordinance; and
3. A-2 medium-density apartment zoning district located at the Gold Coast in the Diamond Head special district (provided the individual parcels request rezoning to Resort).

Amendments to the Master Use Table would allow hotels, condominium hotels and hotel units in the Apartment Precinct and Apartment Mixed Use Precinct of Waikiki.

Hotels and hotel unit development standards are defined, including that hotel units may not be used as B&Bs or TVUs and must be booked by guests through a centralized hotel booking system, and rental rates must be determined by the hotel operator or manager of the hotel's centralized booking service. Hotels and hotel units that have existing certificates of occupancy for hotels uses shall comply with the development standards. Units in a condominium-hotel must be part of the hotel's room inventory, available for rent to the general public, and the use of a condominium-hotel unit as a primary residence or usual place of abode is not allowed.

Use and development standards are established for B&Bs and TVUs, including occupancy limits and sleeping arrangements, onsite parking requirements, noise restrictions and quiet hours, current tax licensing, insurance coverage, restrictions on gatherings, and an informational binder to provide guests guidance on being respectful of neighbors and information to help guests respond appropriately to emergencies.

Amendments provide application, registration, renewal and revocation processes for B&Bs and TVUs.

Advertisements must contain the lawful registration number and tax map key number of the TVU or B&B unit. It is unlawful for any person to advertise or cause the advertisement of a dwelling unit that is not a registered B&Bs and TVUs for a term of less than 180 days.

The amendments include a process for the public to submit written complaints regarding any suspected violation of the ordinance along with how the DPP will respond and follow up on the complaint.

#### **IV. CONCLUSION**

The Department of Planning and Permitting believes that this ordinance responds to the community needs that have shifted significantly under the pandemic. It takes into account the concerns of residential neighborhoods, as well as the visitor industry, and should result in more long-term housing stock being made available for residents by eliminating and prohibiting short-term rentals (STR). Finally, it provides better enforcement tools to address illegal STRs and an independent source of revenue to support the necessary enforcement actions to rein in illegal STRs on Oahu.

**DRAFT BILL**



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## A BILL FOR AN ORDINANCE

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### RELATING TO TRANSIENT ACCOMMODATIONS

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Findings and Purpose. Short-term rentals are disruptive to the character and fabric of our residential neighborhoods; they are inconsistent with the land uses that are intended for our residential zoned areas and increase the price of housing for Oahu's resident population by removing housing stock from the for-sale and long-term rental markets. The City Council finds that any economic benefits of opening-up our residential areas to tourism are far outweighed by the negative impacts to our neighborhoods and local residents.

In 2019, the City passed Ordinance 19-18, allowing a limited number of new bed and breakfast homes and requiring certain short-term rentals to comply with registration requirements, development standards and other regulations. However, some of the provisions in Ordinance 19-18 have proven themselves to be impractical and have resulted in enforcement problems. To address these problems, it is necessary to improve upon Ordinance 19-18 by simplifying the City's approach to regulating short-term rentals and other transient accommodations.

The purpose of this Ordinance is to better protect the City's residential neighborhoods and housing stock from the negative impacts of short-term rentals by providing a more comprehensive approach to the regulation of transient accommodations within the City and creating additional sources of funding for the administration and enforcement of the City's short-term rental and transient accommodations laws.

SECTION 2. Section 8-7.1, Revised Ordinances of Honolulu 1990, as amended, is amended to read as follows:

**"Sec. 8-7.1 Valuation - Considerations in fixing.**

- (a) The director of budget and fiscal services shall cause the fair market value of all taxable real property to be determined and annually assessed by the market data and cost approaches to value using appropriate systematic methods suitable for mass valuation of real property for ad valorem taxation purposes, so selected and applied to obtain, as far as possible, uniform and equalized assessments throughout the city.



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## A BILL FOR AN ORDINANCE

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- (b) So far as practicable, records shall be compiled and kept which shall show the methods established by or under the authority of the director, for the determination of values.
- (c) (1) Real property shall be classified into the following general classes, upon consideration of its highest and best use, and upon other criteria set forth in this section:
  - (A) Residential;
  - (B) Hotel and resort;
  - (C) Commercial;
  - (D) Industrial;
  - (E) Agricultural;
  - (F) Preservation;
  - (G) Public service;
  - (H) Vacant agricultural
  - (I) Residential A; and
  - (J) Bed and breakfast home.
- (2) In assigning real property to one of the general classes, the director shall give major consideration to the districting established by the city in its general plan and zoning ordinance, specific class definitions or criteria set forth in this section, and such other factors which influence highest and best use.

Notwithstanding the city's zoning district classification, the director shall assign to the agricultural class any real property classified as tree farm property under HRS Chapter 186.
- (3) When real property is subdivided into condominium units, each unit and its appertaining common interest:



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## A BILL FOR AN ORDINANCE

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- (A) Shall be deemed a parcel and assessed separately from other units; and
- (B) Shall be classified as follows:
  - (i) If the unit has a single, legally permitted, exclusive actual use, it shall be classified upon consideration of the unit's actual use into one of the general classes in the same manner as real property; or
  - (ii) If the unit has multiple, legally permitted uses; it shall be classified:
    - (aa) Upon consideration of the unit's highest and best use into one of the general classes in the same manner as real property; or
    - (bb) Residential, only upon approved dedication as provided in Section 8-7.5 when the unit is legally permitted multiple exclusive uses including residential use; or
  - (iii) If the unit is a condominium parking unit or a condominium storage unit, it shall be classified residential, only upon approved dedication when the unit is used in conjunction with a unit in residential use within the project.
- (4) Notwithstanding any provision contained in this subsection, a condominium unit that is used at any time during the assessment year as a time share unit, shall be classified for the following tax year as hotel and resort ~~unless:~~
  - ~~(A) The unit is on property zoned as apartment, apartment mixed use, apartment precinct, or apartment mixed use precinct;~~
  - ~~(B) The property on which the unit is located does not include a lobby with a clerk's desk or counter with 24 hour clerk service facilities for registration and keeping of records relating to persons using the property; and~~



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## A BILL FOR AN ORDINANCE

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~~(C) The unit is part of a condominium property regime established pursuant to HRS Chapter 514A, as it read prior to its repeal on January 1, 2019, or HRS Chapter 514B.~~

~~If the requirements of paragraphs (A), (B) and (C) are met, the time share unit shall be classified as residential. For purposes of this subdivision, "assessment year" means the one year period beginning October 2nd of the previous calendar year and ending October 1st, inclusive, of the calendar year preceding the tax year, and "time sharing" has the same meaning as defined in Section 21-10.1].~~

- (5) "Vacant agricultural" means a parcel, or portion thereof, that would otherwise be classified agricultural by the director upon major consideration of the districting established by the city in its general plan and zoning ordinance and of such other factors that influence highest and best use, but which parcel, or portion thereof:

- (A) Has no residential buildings; and
- (B) Is not dedicated for agricultural purposes.

If a portion of a parcel is dedicated as vacant agricultural, the remainder of the parcel that is zoned agricultural must be dedicated for agricultural use.

- (6) Notwithstanding any provision contained in this subsection, all real property actually used by a public service company in its public service business shall be classified public service. For purposes of this subsection, "public service company" means a public utility, except airlines, motor carriers, common carriers by water, and contract carriers, where:

- (A) "Public utility" includes every person who may own, control, operate, or manage as owner, lessee, trustee, receiver, or otherwise, whether under a franchise, charter, license, articles of association, or otherwise, any plant or equipment, or any part thereof, directly or indirectly for public use, for the transportation of passengers or freight, or the conveyance or transmission of telecommunications messages, or the furnishing of facilities for the transmission of intelligence by electricity by land or water or air within the state, or between points within the state, or for the production, conveyance, transmission, delivery, or furnishing of



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## A BILL FOR AN ORDINANCE

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light, power, heat, cold, water, gas, or oil, or for the storage or warehousing of goods, or the disposal of sewage; provided that the term:

- (i) Includes any person insofar as that person owns or operates a private sewer company or sewer facility;
- (ii) Includes any telecommunications carrier or telecommunications common carrier;
- (iii) Does not include any person insofar as that person owns or operates an aerial transportation enterprise;
- (iv) Does not include persons owning or operating taxicabs, as defined in this subsection;
- (v) Does not include common carriers transporting only freight on the public highways, unless operating within localities or along routes or between points that the Public Utilities Commission of the State of Hawaii finds to be inadequately serviced without regulation under this chapter;
- (vi) Does not include persons engaged in the business of warehousing or storage unless the Public Utilities Commission of the State of Hawaii finds that regulation thereof is necessary in the public interest;
- (vii) Does not include:
  - (aa) The business of any carrier by water to the extent that the carrier enters into private contracts for towage, salvage, hauling, or carriage between points within the state and the carriage is not pursuant to either an established schedule or an undertaking to perform carriage services on behalf of the public generally; and
  - (bb) The business of any carrier by water, substantially engaged in interstate or foreign commerce, transporting passengers on luxury cruises between



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## A BILL FOR AN ORDINANCE

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points within the state or on luxury round-trip cruises returning to the point of departure;

- (viii) Does not include any person who:
  - (aa) Controls, operates, or manages plants or facilities for the production, transmission, or furnishing of power primarily or entirely from non-fossil fuel sources; and
  - (bb) Provides, sells, or transmits all of that power, except such power as is used in its own internal operations, directly to a public utility for transmission to the public;
- (ix) Does not include a telecommunications provider only to the extent determined by the Public Utilities Commission of the State of Hawaii, pursuant to applicable state law;
- (x) Shall not include any person who controls, operates, or manages plants or facilities developed pursuant to applicable state law for conveying, distributing, and transmitting water for irrigation and such other purposes that shall be held for public use and purpose; and
- (xi) Shall not include any person who owns, controls, operates, or manages plants or facilities for the reclamation of wastewater; provided that:
  - (aa) The services of the facility shall be provided pursuant to a service contract between the person and a state or county agency and at least 10 percent of the wastewater processed is used directly by the state or county which has entered into the service contract;
  - (bb) The primary function of the facility shall be the processing of secondary treated wastewater that has been produced by a municipal wastewater treatment facility that is owned by a state or county agency;
  - (cc) The facility shall not make sales of water to residential customers;



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## A BILL FOR AN ORDINANCE

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- (dd) The facility may distribute and sell recycled or reclaimed water to entities not covered by a state or county service contract; provided that, in the absence of regulatory oversight and direct competition, the distribution and sale of recycled or reclaimed water shall be voluntary and its pricing fair and reasonable. For purposes of this subparagraph, “recycled water” and “reclaimed water” mean treated wastewater that by design is intended or used for a beneficial purpose; and
  - (ee) The facility shall not be engaged, either directly or indirectly, in the processing of food wastes;
- (B) “Motor carrier” means a common carrier or contract carrier transporting freight or other property on the public highways, other than a public utility or taxicab;
- (C) “Contract carrier” means a person other than a public utility or taxicab which, under contracts or agreements, engages in the transportation of persons or property for compensation, by land, water, or air;
- (D) “Carrier” means a person who engages in transportation, and does not include a person such as a freight forwarder or tour packager who provides transportation by contracting with others, except to the extent that such person oneself engages in transportation;
- (E) “Taxicab” means and includes:
  - (i) Any motor vehicle used in the movement of passengers on the public highways under the following circumstances, namely, the passenger hires the vehicle on call or at a fixed stand, with or without baggage for transportation, and controls the vehicle to the passenger’s destination; and
  - (ii) Any motor vehicle having seating accommodations for eight or less passengers used in the movement of passengers on the public highways between a terminal, i.e., a fixed stand, in the city of Honolulu, and a terminal in a geographical district outside the limits of the city of Honolulu, and vice versa,



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without picking up passengers other than at the terminals or fixed stands; provided that passengers may be unloaded at any point between terminals; and provided further that this definition relating to motor vehicles operating between terminals shall pertain only to those motor vehicles whose operators or owners were duly licensed under any applicable provision of law or ordinance and doing business between such terminals on January 1, 1957;

- (F) "Telecommunications carrier" or "telecommunications common carrier" means any person that owns, operates, manages, or controls any facility used to furnish telecommunications services for profit to the public, or to classes of users as to be effectively available to the public, engaged in the provision of services, such as voice, data, image, graphics, and video services, that make use of all or part of their transmission facilities, switches, broadcast equipment, signaling, or control devices; and
  - (G) "Telecommunications service" or "telecommunications" means the offering of transmission between or among points specified by a user, of information of the user's choosing, including voice, data, image, graphics, and video without change in the form or content of the information, as sent and received, by means of electromagnetic transmission, or other similarly capable means of transmission, with or without benefit of any closed transmission medium, and does not include cable service as defined under applicable state law.
- (d) Whenever land has been divided into lots or parcels as provided by law, each such lot or parcel shall be separately assessed.
  - (e) When a parcel of land that has been classified as agricultural is improved with a single-family dwelling and has been granted a home exemption for the tax year, that portion of the parcel that is used for residential purposes shall be classified as residential. This classification shall:
    - (1) Apply only to that portion used for residential purposes;
    - (2) Not exceed 5,000 square feet of land and the buildings and improvements on that land; and



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- (3) Remain in effect only so long as the property qualifies for a home exemption.
- (f) When a parcel of land that has been classified as preservation is improved with a single-family dwelling and has been granted a home exemption for the tax year, that portion of the parcel which is used for residential purposes shall be classified as residential. This classification shall:
  - (1) Apply only to that portion used for residential purposes;
  - (2) Not exceed 5,000 square feet of land and the buildings and improvements on that land; and
  - (3) Remain in effect only so long as the property qualifies for a home exemption.
- (g)
  - (1) In determining the value of buildings, consideration shall be given to any additions, alterations, remodeling, modifications or other new construction, improvement, or repair work undertaken upon or made to existing buildings as the same may result in a higher assessable valuation of said buildings; provided, however, that any increase in value resulting from any additions, alterations, modifications, or other new construction, improvement or repair work to buildings undertaken or made by the owner occupant thereof pursuant to the requirements of any urban redevelopment, rehabilitation, or conservation project under the provisions of Part II of HRS Chapter 53, shall not increase the assessable valuation of any building for a period of seven years from the date of certification as hereinafter provided.
  - (2) It is further provided that the owner occupant shall file with the director, in the manner and at the place which the director may designate, a statement of the details of the improvements certified in the following manner:
    - (A) In the case of additions, alterations, modifications or other new construction, improvement or repair work to a building that is undertaken pursuant to any urban redevelopment, rehabilitation or conservation project as hereinabove mentioned, the statement shall be certified by the mayor or any governmental official designated by the mayor and approved by the council, that the additions, alterations, modifications, or other new construction, improvements,



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or repair work to the buildings were made and satisfactorily comply with the particular urban development, rehabilitations, or conservation act provision; or

(B) In the case of maintenance or repairs to a residential building undertaken pursuant to any health, safety, sanitation or other governmental code provision, the statement shall be certified by the mayor or any governmental official designated by the mayor and approved by the council, that:

- (i) The building was inspected by them and found to be substandard when the owner or occupant made the claim; and
- (ii) The maintenance or repairs to the buildings were made and satisfactorily comply with the particular code provision.

(h) (1) Notwithstanding the provisions of subsection (c)(2), properties operating as transient vacation units ~~[in accordance with Section 21-4.110-1, and which have a valid nonconforming use certificate, shall be classified based on their underlying zoning]~~ must be classified as hotel and resort.

(2) ~~[Real Property operating as transient vacation units as otherwise permitted under Chapter 21 must be classified as hotel and resort.]~~ Notwithstanding the provisions of subsections (c)(2), properties operating as bed and breakfast homes must be classified as bed and breakfast home.

~~[(3) For purposes of this subsection, "transient vacation unit means the same as defined in Section 21-10.1.]~~

(i) "Residential A" shall mean a parcel, or portion thereof, which:

- (1) Is improved with no more than two single family dwelling units; and
  - (A) Has an assessed value of \$1,000,000 or more;
  - (B) Does not have a home exemption; and
  - (C) Is zoned R-3.5, R-5, R-7.5, R-10 or R-20 or is dedicated for residential use;



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- (2) Is vacant land zoned R-3.5, R-5, R-7.5, R-10 or R-20 and has an assessed value of \$1,000,000 or more; or
- (3) Is a condominium unit with an assessed valuation of \$1,000,000 or more and does not have a home exemption.

Residential A excludes any parcel, or portion thereof, improved with military housing located on or outside of a military base.

- (j) For purposes of this [sub]section, "bed and breakfast home" has the same meaning as defined in Section 21-10.1, and includes bed and breakfast homes with current nonconforming use certificates.
- (k) For the purposes of this section, "transient vacation unit" shall have the same meaning as defined in Section 21-10.1, and includes transient vacation units with current nonconforming use certificates."

SECTION 3. Article 2A of Chapter 21, Revised Ordinances of Honolulu 1990, as amended, is repealed.

SECTION 4. Section 21-1.40, Revised Ordinances of Honolulu 1990, as amended, is amended to read as follows:

**Sec. 21-1.40 Appeals.**

Appeals from the actions of the director in the administration of the provisions of the LUO shall be to the zoning board of appeals as provided by Section 6-1516 of the charter. Appeals shall be filed within 30 days of the mailing or service of the director's decision. For the purposes of this section:

- (a) The date of mailing or service shall be the date on which an action of the director is placed into the United States mail, for actions of the director that do not need to be served by registered or certified mail;
- (b) For actions of the director that are served by registered or certified mail, the date of mailing or service shall be the date on which the registered or certified mail is received, as indicated by the return receipt for the mailing or other records of the United States Postal Service;
- (c) For actions of the director that are served by physical delivery to a person or a person's residence, place of employment, or usual place of business,



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the date of service shall be the date of delivery, as established by an acknowledgment of service signed by the person taking delivery of the director's action or a sworn declaration made by the person responsible for effecting the service of the director's action by the means identified in this paragraph;

- (d) For actions of the director that are served by physical posting of a copy of an action of the director upon the property where the violation has occurred, the date of the service shall be the date of posting, as established by a sworn declaration made by the person responsible for effecting the service of the director's action by the means identified in this paragraph;
- (e) For actions of the director that are served by publication, the date of service shall be the date on which the last required publication is made;
- (f) For actions of the director that are delivered by fax, email, or other means of electronic transmission, the date of service shall be the date on which the director's action is transmitted to the correct email address, fax number, or other electronic address for the person served, as established by a fax receipt; email receipt; email response that acknowledges receipt of the email; or other reasonable proof of the successful transmission of electronic delivery to the addressee.
- (g) For persons who have made a written request notice of a director's action concerning a particular project, property, or applicant before the director's action is issued, the date of service shall be determined according to paragraphs (a) through (f) of this section; and
- (h) For persons who have requested notice of a director's action concerning a particular project, property, or applicant after the director's action has been issued to the applicant, the date of service shall be the earlier of date on which the director's action was served upon the applicant in accordance with subsections (a) through (f), or, the date on which the director's action was served on the person requesting notice of the director's action in accordance with subsections (a) through (f).

SECTION 5. Section 21-2.150-2, Revised Ordinances of Honolulu 1990, as amended, is repealed.



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SECTION 6. Article 2 of Chapter 21, Revised Ordinances of Honolulu 1990, as amended, is amended by adding a new Section 21-2.150-2 to read as follows:

"Sec. 21-2.150-2 Administrative enforcement.

- (a) Enforcement authority. In addition to seeking criminal prosecution under Section 21-2.150-1, the director may enforce violations of this chapter, administrative rules that are adopted by the director to administer this chapter, and the conditions of any permits or approvals granted under the same by issuing an enforcement order authorized by this section.
- (b) Persons responsible for violations. The owners of real property, buildings, and premises that are used in violation of the legal authorities identified in subsection (a) shall be liable for any violations on their property and are responsible for complying with any enforcement order issued by the director concerning the same. In addition, persons that have possession or control of the real property, building, or premises on which a violation exists may be held liable for the violation and held responsible for complying with the director's order. Persons who cause, contribute to, or benefit from a violation, in whole or in part, may also be held liable for such violations and will be responsible for complying with enforcement orders issued by the director. For the purposes of this section, "persons" means natural persons or legal persons including but not limited to trusts, corporations, partnerships, and limited liability companies.
- (c) Joint and several liability. If the director determines that more than one person is liable for a violation, the director may issue one enforcement order to all responsible persons or separate orders to persons or groups of persons that are responsible for the violation. Persons that are issued an order pursuant to this section are jointly and severally liable for the violations described in the director's order, such that each person will be independently liable for the full extent of the violation and responsible for complying with the order.
- (d) Service of enforcement orders issued by the director. The director may serve an enforcement order issued pursuant to this section by registered or certified mail, with return receipt requested, addressed to the last known address of each violator identified in the order. The director may also serve an order issued under this section by delivering a copy of the order to the violator in person, or by leaving a copy of the order at the violator's residence, place of employment, or usual place of business, or by physically posting a copy of the order in a prominent location on the property in a conspicuous manner which is likely to be discovered, only if due diligence was used in attempting to serve the person



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personally or by registered or certified mail. If the director is not able to serve the order by any of the methods described in this section, the director may then serve the order on one or more violators by publishing a copy of the order once each week for two consecutive weeks in a daily or weekly publication that is in circulation within the City. Where one or more violators that are identified in an order have the same mailing address, place of residence, place of employment or usual place of business, the delivery of one copy of the order shall be effective upon all persons named in the order that can be served at the place where the order has been delivered.

- (e) Types of enforcement orders. The director may issue the following types of enforcement orders: (1) notice of violation and order to correct; (2) notice of order and imposition of fines; (3) consent order; and (4) order to show cause.
- (f) Notice of violation and order to correct. The director may issue a notice of violation and order to correct to the persons identified in subsection (b). In addition to any other information or requirements deemed appropriate by the director, a notice of violation and order to correct shall:
- (1) Identify the persons to whom the order is addressed;
  - (2) State the address or location of the violation;
  - (3) Identify the specific ordinance, rule, or condition that has been violated;
  - (4) Provide a concise description of the violation;
  - (5) State the actions that are necessary to correct the violation;
  - (6) Order the violator to correct the violation by a specific date;
  - (7) Identify the penalties that will be imposed for the violation if it is not corrected by the deadline for correction established pursuant to subsection (e)(6); and
  - (8) Order the violator to send a written notification to the director reporting the correction of the violation when the violator believes that the violation is cured.
- (g) Notice of order and imposition of fines. The director may issue a notice of order and imposition of fines to the persons identified in subsection (b). In addition to



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any other information or requirements deemed appropriate by the director, a notice of order and imposition of fines shall:

- (1) Identify the persons to whom the order is addressed;
- (2) State the address or location of the violation;
- (3) Identify the specific ordinance, rule, or condition that has been violated;
- (4) Provide a concise description of the violation;
- (5) State the actions that are necessary to correct the violation;
- (6) Order the person to correct the violation by a specific date;
- (7) Require the persons to pay a civil fine of up to \$25,000.00 per violation identified in the order;
- (8) Require the persons to pay a civil fine of up to \$25,000.00 per day, for each day the violation remains uncorrected after the deadline for correction established pursuant to subsection (f)(6);
- (9) Order the violator to send a written notification to the director reporting the correction of the violation when the violator believes that the violation is cured; and
- (10) Inform the violator that the order can be appealed to the Zoning Board of Appeals in accordance with Section 21-1.40.

- (h) Consent Orders. The director is authorized to enter into consent orders, based on reasonable assurances of voluntary compliance from persons that have been issued a notice of violation and order to correct. A consent order shall be signed by the director and the persons who have agreed to voluntarily correct a violation, state the specific actions to be taken to correct the violation, and state the dates by which each action will be completed. The director may enforce the terms of consent orders pursuant to this section, including judicial enforcement pursuant to subsection (n). The failure to comply with the requirements of a consent order shall be punishable by a civil fine of up to \$100,000.00 per violation, with each day(s) of noncompliance treated as a separate violation.



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(i) Order to show cause. Whenever the director has cause to believe that a violation is taking place or threatening to take place, the director may issue an order to show cause to the persons identified in subsection (b). An order to show cause shall:

- (1) Be accompanied by a proposed notice of violation and order to correct or notice of order and imposition of fines;
- (2) Require the respondents to appear before the director at a specified place and time and admit to the facts in the proposed order or show cause as to why the proposed notice of violation and order to correct or notice of order and imposition of fines should not be issued; and
- (3) Inform the respondents that they have the right to hire an attorney and be represented by an attorney in the show cause proceedings before the director.

Persons that are served with an order to show cause will be required to appear before the director in a show cause hearing and shall have the burden of proving that the proposed notice of violation and order to correct or notice of order and imposition of fines should not be issued because it is based on an erroneous findings of material fact, an incorrect interpretation of the law, arbitrary and capricious decision-making, or an abuse of discretion. If the respondents to a show cause order are not able to prove that the proposed notice of violation and order to correct or notice of order and imposition of fines should not be issued, the director may issue the proposed notice of violation and order to correct or notice of order and imposition of fines to the respondents or allow the respondents to enter into a consent order with the department. If a respondent to a show cause order does not appear before the director at the required place and time, the facts in the proposed notice of violation and order to correct or notice of order and imposition of fines will be deemed admitted by the respondent and the director may issue the proposed notice of violation and order to correct or notice of order or order and imposition of fines to the respondent that has failed to appear at the show cause hearing.

(j) Duration of violation. A violation that is identified in an enforcement order issued under this section will continue until it is deemed corrected by the director. The director may impose separate or additional penalties for each day that a violation remains uncorrected after the date the deadline for correction state in the enforcement order. However, separate enforcement orders will not be required to impose additional penalties for ongoing violations.



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- (k) Procedure for closing violations. Persons that are subject to an enforcement order issued by the director are responsible for notifying the director of the correction of any violations identified in the enforcement order. Notifications sent to the director shall be in writing, dated, and signed by the person reporting the correction to the director. When a violator informs the director that a violation is corrected, the director shall promptly review the violation and respond to the violator by acknowledging the violation is corrected or by identifying the additional actions that are necessary to correct the violation. If a person subject to an enforcement order corrects a violation and fails to promptly notify the director of the violation's correction, the date of correction will be the date on which the director is provided written notice of the correction unless the violator is able to establish, to the satisfaction of the director, that the violation was corrected on an earlier date.
- (l) Additional penalties for illegal short-term rentals. In addition to the enforcement actions and penalties authorized by subsections (a) through (i), if the director determines that a person has violated any of the provisions in this chapter relating to bed and breakfast homes or transient vacation units, any rule adopted by the department pertaining to bed and breakfast homes or transient vacation units, or the conditions of any nonconforming use certificate or certificate of registration issued by the department for a bed and breakfast home or transient vacation, the director may impose an additional civil fine on the responsible persons, in an amount up to the highest daily rate at which the bed and breakfast home or transient vacation unit in issue has been advertised or offered for rent as a bed and breakfast home or transient vacation unit. When a bed and breakfast home or transient vacation unit is advertised or offered for rent for less than 180 consecutive days without displaying or specifying the daily rates for the rental, the additional penalty authorized by this section shall be determined by pro rating the rental price for the property based on any known advertisement or offer for the rental of the dwelling unit for less than 180 days and the total rental price for the same, excluding any taxes passed on to the renter. The additional civil fine authorized by this section may be imposed as a daily fine, applicable to each day a dwelling unit is used, advertised, or offered as a bed and breakfast home or transient vacation unit in violation of the provisions in this chapter relating to bed and breakfast homes or transient vacation units, the department's rules relating to bed and breakfast homes or transient vacation units, or the conditions of a nonconforming use certificate or certificate of registration issued by the department.
- (m) Opportunity for contested case hearing. Notwithstanding anything to the contrary, no civil fine or penalty authorized by this chapter shall be due and



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owing to the city until the opportunity for a contested case hearing pursuant to Section 21-1.40 has expired or been exhausted.

- (n) Judicial enforcement of enforcement orders. The director may institute a civil action in any court of competent jurisdiction for the enforcement of any enforcement order issued pursuant to this section. Where the civil action has been instituted to enforce the civil fine imposed by said order, the director need only show that the notice of violation and order were served, that a civil fine was imposed, the amount of the civil fine imposed and that the fine imposed has not been paid.

SECTION 7. Section 21-2.150-3, Revised Ordinances of Honolulu 1990, as amended, is amended to read as follows:

"Sec. 21-2.150-3 ~~[Depository of]~~ Deposit and use of fees, [and] civil penalties, and taxes relating to bed and breakfast homes or transient vacation units.

- (a) Notwithstanding any other ordinance to the contrary, ~~[payments of]~~ fees and civil penalties relating to bed and breakfast homes ~~[or]~~ and fees and civil penalties relating to transient vacation units shall be deposited into a special account of the general fund, to be appropriately named by the department of budget and fiscal services, and used by the department of planning and permitting for expenses related to the administration and enforcement of the provisions of this chapter relating to bed and breakfast homes and transient vacation units.
- (b) Notwithstanding any ordinance to the contrary, beginning in the 2022 tax year and in all tax years thereafter, up to \$3,125,000.00 in real property taxes collected annually by the city for the bed and breakfast tax classification and the hotel and resort tax classification shall be placed into the special fund identified in subsection (a) and used by the Department of Planning and Permitting for the administration and enforcement of the provisions of this chapter relating to bed and breakfast homes and transient vacation units.

SECTION 8. Table 21-3, Revised Ordinances of Honolulu 1990, as amended, is amended by amending the "bed and breakfast homes" and "transient vacation units" entries to read as follows:



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### “TABLE 21-3 MASTER USE TABLE

In the event of any conflict between the text of this Chapter and the following table, the text of the Chapter shall control. The following table is not intended to cover the Waikiki Special District; please refer to Table 21-9.6(A).

**KEY:** Ac = Special accessory use subject to standards in Article 5  
Cm = Conditional Use Permit-minor subject to standards in Article 5; no public hearing required (see Article 2 for exceptions)  
C = Conditional Use Permit-major subject to standards in Article 5; public hearing required  
P = Permitted use  
P/c = Permitted use subject to standards in Article 5  
PRU = Plan Review Use

ZONING DISTRICTS																					
USES (Note: Certain uses are defined in Article 10.)	P-2	AG-1	AG-2	Country	R-20, R-10	R-7.5, R-5, R-3.5	A-1	A-2	A-3	AMX-1	AMX-2	AMX-3	Resort	B-1	B-2	BMX-3	BMX-4	I-1	I-2	I-3	IMX-1

### DWELLINGS AND LODGINGS

Bed and Breakfast Homes			[P/e]	[P/e]	[P/e <sup>3</sup> ]	[P/e <sup>3</sup> ]	P/c <sup>3</sup>	P/c <sup>3</sup>	[P/e <sup>3</sup> ]	[P/e <sup>3</sup> ]	[P/e <sup>3</sup> ]	[P/e <sup>3</sup> ]	[P/e <sup>3</sup> ]			[P/e <sup>3</sup> ]	[P/e <sup>3</sup> ]				
Transient Vacation Units							P/c <sup>3</sup>	P/c <sup>3</sup>					[P/e <sup>3</sup> ]								

SECTION 9. Table 21-3, Revised Ordinances of Honolulu 1990, as amended, is amended by amending the footnotes to Table 21-3 to read as follows:

**“Notes:**

Where a proposed use is not specifically listed above, the director shall review the proposed use and, based on its characteristics and its similarity to the uses listed above, shall determine the regulatory requirements for that use.

<sup>1</sup> Commercial use subject to special density controls (see Table 21-3.3 and Section 21-3.90-1 (c)(4)).

<sup>2</sup> Commercial use subject to special density controls (see Table 21-3.5 and Section 21-3.140-1(c)).



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<sup>3</sup> Bed and breakfast homes and transient vacation units allowed by Table 21-3 are subject to the development standards and location restrictions established in Article 5. Notwithstanding any contrary provisions in this chapter, bed and breakfast homes and transient vacation units that do not have [are prohibited and may not operate without] a valid nonconforming use certificate or certificate of registration are not allowed in areas where the applicable development plan or sustainable communities plan prohibits [or does not permit] the establishment of new bed and breakfast homes or transient vacation units; provided that this note shall not prohibit the renewal of a valid certificate of registration originally issued prior to a subsequent development plan amendment that prohibits bed and breakfast homes or transient vacation units in a development plan area.

SECTION 10. Section 21-4.110-1, Revised Ordinances of Honolulu 1990, as amended, is amended to read as follows:

"Sec. 21-4.110-1. Nonconforming use certificates for transient vacation units.

- (a) The purpose of this section is to permit certain transient vacation units that have been in operation since prior to October 22, 1986, to continue to operate as nonconforming uses subject to obtaining a nonconforming use certificate as provided by this section. This section applies to any owner, operator, or proprietor of a transient vacation unit who holds a valid nonconforming use certificate issued pursuant to this section on the effective date of this ordinance.
- (b) The owner, operator, or proprietor of any transient vacation unit who has obtained a nonconforming use certificate under this section shall apply to renew the nonconforming use certificate in accordance with the following schedule: (1) Between September 1, 2000 and October 15, 2000; then (2) Between September 1 and October 15 of every even-numbered year thereafter. Each application to renew shall include proof that (i) there were in effect a State of Hawaii general excise tax license and transient accommodations tax license for the nonconforming use during each calendar year covered by the nonconforming use certificate being renewed and that there were transient occupancies (occupancies of less than 30 days apiece) for a total of at least 35 days during each such year and that (ii) there has been no period of 12 consecutive months during the period covered by the nonconforming use certificate being renewed without a transient occupancy. Failure to meet these conditions will result in the denial of the application for renewal of the nonconforming use certificate. The requirement for the 35 days of transient occupancies shall be effective on January 1, 1995 and shall apply to renewal applications submitted on or after January 1, 1996.



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- (c) The owner, operator, or proprietor of any transient vacation unit who has obtained a nonconforming use certificate under this section shall display the certificate issued for the current year in a conspicuous place on the premises. In the event that a single address is associated with numerous nonconforming use certificates, a listing of all units at that address holding current certificates may be displayed in a conspicuous common area instead.
- (d) The provisions of Section ~~[21-5.730(e)]~~ 21-5.730.4 shall apply to advertisements for transient vacation units operating under a nonconforming use certificate pursuant to this section.<sup>["]</sup>

SECTION 11. Section 21-4.110-2, Revised Ordinances of Honolulu 1990, as amended, is amended to read as follows:

"Sec. 21-4.110-2 Bed and breakfast homes--Nonconforming use certificates.

- (a) The purpose of this section is to permit certain bed and breakfast homes, that have been in operation since prior to December 28, 1989, to continue to operate as nonconforming uses subject to obtaining a nonconforming use certificate as provided by this section. This section applies to any owner, operator, or proprietor of a bed and breakfast home who holds a valid nonconforming use certificate issued pursuant to this section on August 1, 2019.
- (b) The owner, operator, or proprietor of any bed and breakfast home who has obtained a nonconforming use certificate under this section shall apply to renew the nonconforming use certificate in accordance with the following schedule: (1) between September 1, 2000 and October 15, 2000; then (2) between September 1 and October 15 of every even-numbered year thereafter. Each application to renew shall include proof that (i) there were in effect a State of Hawaii general excise tax license and transient accommodations tax license for the nonconforming use for each calendar year covered by the nonconforming use certificate being renewed and that there were bed and breakfast occupancies (occupancies of less than 30 days apiece) for a total of at least 28 days during each such year and that (ii) there has been no period of 12 consecutive months during the period covered by the nonconforming use certificate being renewed without a bed and breakfast occupancy. Failure to meet these conditions will result in the denial of the application for renewal of the nonconforming use certificate. The requirement for the 28 days of bed and breakfast occupancies shall be effective on January 1, 1995 and shall apply to renewal applications submitted on or after January 1, 1996.



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- (c) Section 21-5.350 relating to home occupations shall not apply to bed and breakfast homes.
- (d) Those bed and breakfast homes for which a nonconforming use certificate has been issued and renewed, as required, pursuant to this section shall operate pursuant to the following restrictions and standards:
  - (1) Detached dwellings used as bed and breakfast homes shall be occupied by a family and shall not be used as a group living facility. Rooming shall not be permitted in bed and breakfast homes.
  - (2) No more than two guest rooms shall be rented to guests, and the maximum number of guests permitted within the bed and breakfast home at any one time shall be four.
  - (3) There shall be no exterior signage that advertises or announces that the dwelling is used as a bed and breakfast home.
  - (4) One off-street parking space shall be provided for each guest room, in addition to the required spaces for the dwelling unit.
  - (5) The provisions of Section ~~[21-5.730(c)]~~ 21-5.730.4 shall apply to advertisements for the bed and breakfast home.
- (e) The owner, operator, or proprietor of any bed and breakfast home who has obtained a nonconforming use certificate under this section shall display the certificate issued for the current year in a conspicuous place on the premises."

SECTION 12. Section 21-5.360, Revised Ordinances of Honolulu 1990, as amended, is repealed.

SECTION 13. Chapter 21, Article 5, Revised Ordinances of Honolulu 1990, as amended, is amended by adding a new Section 21-5.360 to read as follows:



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"Sec. 21-5.360 Hotels and Hotels Units.

- (a) Hotel units must be used or offered to provide dwelling or lodging accommodations to transient guests. Hotel units may not be used as transient vacation units or bed and breakfast homes.
- (b) Hotel units must be booked by guests through a centralized hotel booking system that is managed by the hotel operator or through the hotel front desk, provided that this section will not prohibit the booking of hotel units through third party services or technologies that make bookings through the central hotel operated booking system or hotel front desk.
- (c) Rental rates for all hotel units must be determined by the hotel operator or the manager of the hotel's centralized booking service. Hotels and third party booking services may not provide discounted rental rates to the owners of condominium hotel units or hotel guests arranged for by the owners of condominium hotel units unless the same discounted rates are available to members of the general public that are not condominium hotel unit owners or guests of condominium hotel unit owners. This section does not apply to bookings for hotel units that are part of a legally established time-share program.
- (d) Hotels and hotel units that have existing certificates of occupancy for hotel uses shall comply with subsections (b) and (c) within two years of the effective date of this ordinance. Hotels and hotel units that obtain certificates of occupancy for hotel uses after the effective date of this ordinance must comply with the subsections (b) and (c) immediately."

SECTION 14. Chapter 21, Article 5, Revised Ordinances of Honolulu 1990, as amended, is amended by adding a new Section 21-5.360.1 to read as follows:

"Sec. 21-5.360.1 Condominium hotels.

Units in a condominium-hotel must be part of the hotel's room inventory, available for rent to the general public. The use of a condominium-hotel unit as a primary residence or usual place of abode is not allowed."

SECTION 15. Chapter 21, Article 5, Revised Ordinances of Honolulu 1990, as amended, is amended by adding a new Section 21-5.360.2 to read as follows:



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"Sec. 21-5.360.2 Specialty Hotels.

(a) Transit related Hotels. Hotels shall be permitted in the I-2 intensive industrial district and IMX-1 industrial-commercial mixed use district provided:

- (1) They are within one-half mile by the usual and customary route of vehicular travel from the principal entrance of an airport utilized by commercial airlines, having regularly scheduled flights. For Honolulu International Airport, the principal entrance shall be the intersection of Paiea Street and Nimitz Highway.
- (2) They have frontage on a major or secondary street or highway.
- (3) They have a minimum lot area of 15,000 square feet and minimum lot width of 70 feet.
- (4) The maximum floor area ratio shall be 2.0.
- (5) Parking requirements of at least one space per two lodging or dwelling units shall be provided.
- (6) Front yards shall have a minimum depth of 10 feet, and except for necessary driveways and walkways, shall be maintained in landscaping.
- (7) Signs shall conform to the sign requirements applicable within B-2 community business district regulations.

(b) Business travel hotels. Hotels shall be permitted in the BMX-3 community business district provided:

- (1) They are located within the Primary Urban Center Development Plan, the Ewa Development Plan, or the Central Oahu Sustainable Communities Plan areas as established by Chapter 24.
- (2) Hotel with more than 180 dwelling and/or lodging units shall require a conditional use permit (Major).
- (3) When eating or drinking establishments, meeting facilities, retail establishments or other commercial establishments are on the same zoning lot, these uses shall be treated as separate permitted uses for purposes of this chapter.



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(4) Multifamily dwellings and hotel use shall not be permitted on the same floor level.

(5) No hotel unit shall be used as a time share.

SECTION 16. Section 21-5.730, Revised Ordinances of Honolulu 1990, as amended, is repealed.

SECTION 17. Chapter 21, Article 5, Revised Ordinances of Honolulu 1990, as amended, is amended by adding a new Section 21-5.730.1 to read as follows:

"Sec. 21-5.730.1 Bed and breakfast homes and transient vacation units.

(a) Bed and breakfast homes and transient vacation units are permitted in the portions of the A-2 medium-density apartment zoning district located in the Gold Coast area of the Waikiki Special District shown in Exhibit A and in the portions of the A-1 low-density apartment zoning district and A-2 medium-density apartment zoning district located in the Kuilima and Ko'olina Resort areas shown in Exhibits C and -B, respectively, subject to the restrictions and requirements in Article 5 of this chapter.

(b) The provisions of this chapter shall not eliminate or supersede private restrictive covenants or other restrictions that prohibit the use of real property as a bed and breakfast home or transient vacation unit."

SECTION 18. Chapter 21, Article 5, Revised Ordinances of Honolulu 1990, as amended, is amended by adding a new Section 21-5.730.2 to read as follows:

"Sec. 21-5.730.2 Registration, eligibility, application, renewal and revocation.

(a) Registration required. Bed and breakfast homes and transient vacation units must be registered with the department. Each natural person, as distinguished from legal persons and legal entities, may own no more than one dwelling or lodging unit that is registered as a bed and breakfast home or transient vacation unit. Bed and breakfast homes and transient vacation units that have a valid nonconforming use certificate issued under Sections 21-4.110-1 or 21-4.110-2 will be counted as registered dwelling units for the purposes of this section. Legal entities other than natural persons are not eligible to register a bed and breakfast home or transient vacation unit with the department.



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- (b) Duration of registration and registration fees. Registration shall be effective for a period of one year beginning on the date a certificate of registration is issued by the department and must be renewed annually before expiration. The application cost for an initial registration is \$5,000.00 and the application cost for renewing a registration is \$2,500.00
- (c) Application requirements. Applications shall be made in a form prescribed by the department and demonstrate the applicant's ability to operate the proposed bed and breakfast home or transient vacation unit in compliance with Sections 21-5.730.1 and 21-5.730.3. The director shall adopt rules pursuant to Chapter 91, HRS, detailing information required to be submitted with an initial application under this Section, which shall include, but not be limited to:
- (1) The property owner's general excise tax and transient accommodations tax license numbers for the proposed rental;
  - (2) A title report for the property that will be used to operate the bed and breakfast home or transient vacation unit. The title report must be issued or updated within thirty (30) days of its submission to the department and identify all persons that own an interest in the property;
  - (3) A certificate of insurance showing that the property has the insurance coverage required by Section 21-5.730.3;
  - (4) For a proposed bed and breakfast home only, evidence that the property owner has obtained or been approved for a homeowner exemption pursuant to Section 8-10.4; and
  - (5) The informational binder required pursuant to Section 21-5.730.3, which does not need to include a certificate of registration for the proposed bed and breakfast home or transient vacation unit at the time of submission to the director for the purposes of this paragraph.
- (d) Issuance of certificate of registration. Upon determining that the requirements of Sections 21-5.730.1 through 21-5.730.3 have been met, the director may cause a certificate of registration to be issued to the owner of the property on which the bed and breakfast home or transient vacation unit will be located. Certificates of registration will be personal to the owner, will not run with the land, and may not be transferred to any other person.



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- (e) Applications for renewing certificates of registration. The holder of a current certificate of registration may apply to renew their certificate of registration up to three months prior to the expiration of the same, but in no case after their certificate of registration has expired. Renewal applications shall be made in a form prescribed by the department and update any information that was previously provided to the department that is no longer accurate or correct. The director shall adopt rules pursuant to Chapter 91, HRS, detailing information and requirements for renewal applications. In addition to any requirements established by the department's rules, applications for the renewal of certificates of registration shall include:
- (1) A tax clearance certificate issued by State of Hawaii, Department of Taxation which certifies the payment of general excise and transient accommodations taxes for rentals during the previous tax year;
  - (2) A tax clearance certificate issued by the City Department of Budget and Fiscal Services that certifies that real property taxes were assessed at the rates required by Section 8-7.1 and paid in full during the preceding tax year;
  - (3) If there has been any change in the ownership of the property used for the bed and breakfast home or transient vacation unit, an updated title report issued within thirty (30) days of its submission to the department; and
  - (4) A certificate of insurance documenting that the owner has maintained the insurance coverage required by Section 21-5.730.3 throughout the entire term of the preceding registration period.
- (f) Registration renewal. The director may approve an application for the renewal of a certificate of registration and issue a new certificate of registration to the owner of the property used as a bed and breakfast home or transient vacation unit if the director determines that the applicant and property continue to meet the requirements of Sections 21-5.730.1 and 21-5.730.3.
- (g) Revocation and nonrenewal. If the owner of the property for a bed and breakfast home or transient vacation unit receives more than two enforcement orders for violations of Section 21-5.730.1 or 21-5.730.3 within a one-year period or otherwise demonstrates that they are not able to operate a bed and breakfast home or transient vacation unit without causing significant negative impacts to people and areas in the vicinity of their rental, the director may revoke their certificate of registration by issuing a revocation order to the property owner. The



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director may also refuse to renew a certificate of registration if an applicant has been issued one or more enforcement orders for violating Sections 21-5.730.1 or 21-5.730.3 within one year of applying for a certificate renewal and has not adequately addressed the violation to the satisfaction of the director. The authority to revoke a certificate of registration or refuse to renew a certificate of registration granted to the director by this section shall be in addition to and not in lieu of other authority granted to the director by this Chapter."

SECTION 19. Chapter 21, Article 5, Revised Ordinances of Honolulu 1990, as amended, is amended by adding a new Section 21-5.730.3 to read as follows:

"Sec. 21-5.730.3 Use and development standards for bed and breakfast homes and transient vacation units. All bed and breakfast homes and transient vacation units except those that are allowed to operate in accordance with a nonconforming use certificate issued under Sections 21-4.110-1 or 21-4.110-2 must comply with the following standards and requirements.

- (a) Occupancy limits and sleeping arrangements. All overnight guests at the bed and breakfast home or transient vacation unit must be registered with the owner or operator of the bed and breakfast home or transient vacation unit. Sleeping accommodations for all guests must be provided in bedrooms, and no more than two adults may use any bedroom in the bed and breakfast home or transient vacation unit for sleeping purposes. The total number of adult overnight guests at a bed and breakfast home or transient vacation unit shall not exceed twice the number of bedrooms provided to guests for sleeping accommodations.
- (b) Onsite parking required. All parking for bed and breakfast homes and transient vacation units must be provided on all-weather surfaces on the same zoning lot as the bed and breakfast home or transient vacation unit unless the rental is located in a multifamily dwelling with off-site parking approved by the department. Persons associated with bed and breakfast homes and transient vacation units (e.g., overnight guests, owners, operators, service providers and visitors) may not park their vehicles on or along public streets abutting the zoning lot on which the bed and breakfast home or transient vacation unit is located.
- (c) Smoke and carbon monoxide detectors required. All bedrooms provided to guests and hallways connected to guest bedrooms must be equipped with functioning smoke and carbon monoxide detectors.
- (d) Noise restrictions and quiet hours. Between the hours of 10:00 p.m. and 7:00 a.m., no noise from a bed and breakfast home or transient vacation unit may be



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audible from common areas in a multifamily dwelling or from areas outside of the zoning lot on which the bed and breakfast home or transient vacation unit is located. For the purposes of this subsection, audible means perceivable by a person without the use of sound detecting technologies or audio aides.

(e) Current tax licensing required. The owner of the property on which a bed and breakfast home or transient vacation unit is located must have, and keep current at all times, general excise and transient accommodations tax licenses for their bed and breakfast home or transient vacation unit.

(f) Insurance coverage required. The owner of a bed and breakfast home or transient vacation unit must maintain a minimum of \$1,000,000.00 in commercial general liability insurance at all times. In addition to any supplemental insurance coverage selected by the owner, such insurance coverage must include coverage for:

(1) Bodily injury and property damage arising out of the condition of the premises or the negligent acts of the business and persons providing services to the business. For the purposes of this subsection, bodily injury shall include mental injuries and emotional distress whether or not such harm is accompanied by other physical or bodily harm;

(2) Personal and advertising injury arising out of liability for libel, malicious prosecution, wrongful eviction, wrongful entry, public disclosure of private facts, and invasion of privacy; and

(3) Necessary and reasonable medical, surgical, ambulance, hospital, professional nursing and funeral expenses for a person injured or killed in an accident taking place on the insured's premises.

(g) Gatherings restricted. The property on which a bed and breakfast home or transient vacation unit is located may not be used for gatherings of ten or more people who are not registered as overnight guests at the bed and breakfast home or transient vacation unit unless the director designates the bed and breakfast home or transient vacation unit as eligible for gatherings.

(1) Gatherings eligible property. The director may only designate a property with a bed and breakfast home or transient vacation unit as eligible for gatherings if the type of gatherings proposed by the applicant are permitted as a principal or accessory use of the zoning lot on which the bed and breakfast home or transient vacation unit is located.



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- (2) If the director finds that the circumstances of the property and the applicant's proposed measures to mitigate the impacts of gatherings on nearby people and properties reasonably ensure that the proposed gatherings will not result in significant negative impacts to nearby people or properties, the director may designate the bed and breakfast home or transient vacation unit as eligible for gatherings.
- (3) Conditions of approval. The director may impose any conditions deemed necessary to mitigate the impacts of gatherings on nearby persons and properties at the time the director designates a property as eligible for gatherings, or upon a reconsideration of the director's decision to designate the property as eligible for gatherings. Standard conditions for properties designated as eligible for gatherings may include restrictions on the number of people allowed at the property, restrictions on the types of gatherings allowed at the property, restrictions or prohibitions on the use of sound amplifying devices, parking requirements, and requirements for additional insurance coverages.
- (h) Informational binder required. The owner of a bed and breakfast home or transient vacation unit shall create a binder labeled "For the Safety and Convenience of You and Your Neighbors" and cause the same to be placed and maintained in a conspicuous location within the bed and breakfast home or transient vacation unit at all times. The binder should provide guests with guidance on being respectful of neighbors and information that will help guests to respond appropriately to emergencies. The binder must be provided for review and inspection to the director upon request. The informational binder required by this subsection must include the following documents and information:
- (1) A floor plan of the dwelling unit used as a bed and breakfast home or transient vacation which identifies the location of all bedrooms provided to guests, the maximum occupancy of each bedroom, and the location of all fire exits.
- (2) For bed and breakfast homes and transient vacation units that are not located in a multifamily dwelling, a parking plan that shows the location and number of parking stalls that are available to persons associated with the bed and breakfast home or transient vacation unit (e.g., owners, guests, visitors and service providers), or for bed and breakfast homes or transient vacation units located within a multifamily dwelling, a parking plan that identifies the location and number of parking stalls within the multifamily dwelling building that may be used by persons associated with



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the bed and breakfast home or transient vacation unit. Parking plans for multifamily dwellings may be provided in narrative form without illustrations or graphics; parking plans for all other bed and breakfast homes and transient vacation units must contain illustrations, drawn to scale, which show the size of designated parking spaces and their location on the zoning lot for the bed and breakfast home or transient vacation unit.

- (3) Instructions for trash collection and disposal, which include the dates and times of scheduled trash collections.
- (4) A copy of the house rules for the bed and breakfast home or transient vacation unit. House rules for all bed and breakfast homes or transient vacation units must impose quiet hours between 10:00 p.m. and 7:00 a.m. and prohibit the parking of vehicles associated with the bed and breakfast home or transient vacation unit in all areas other than the parking spaces identified in the parking plan required by paragraph (h)(2).
- (5) A list of emergency contacts, which must include a 24-hour phone number for the owner of the bed and breakfast home or transient vacation unit, the Honolulu Police Department, the Honolulu Fire Department, the Hawaii Poison Control Center, and the website address for the Hawaii Emergency Management Agency.
- (6) A copy of the certificate of insurance for the bed and breakfast home or transient vacation unit;
- (7) Copies of the general excise and transient accommodations tax licenses for the bed and breakfast home or transient vacation unit; and
- (8) A copy of the certificate of registration for the bed and breakfast home or transient vacation unit issued by the department."

SECTION 20. Chapter 21, Article 5, Revised Ordinances of Honolulu 1990, as amended, is amended by adding a new Section 21-5.730.4 to read as follows:

"Sec. 21-5.730.4 Advertisements, regulation, and prohibitions.

(a) Definitions. As used in this Section:

"Advertisement" means the display or transmission of any communication that may cause a reasonable person to understand that a dwelling unit or property is



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available for rent. Advertisements include, by way of example and without limitation, written and spoken words, e-mails, text messages, electronic and hard copy publications, flyers, handbills, signs, websites, and expressive images.

“Person” means a natural person or legal person, and includes all types of business and legal entities, including, by way of example and without limitation, associations, corporations, estates, individuals, limited liability companies, non-profit organizations, partnerships, and trusts.

- (b) Regulation of advertisements for bed and breakfast homes and transient vacation units. Advertisements for all bed and breakfast homes and transient vacation units are subject to this subsection.
- (1) It is unlawful for any person to advertise or cause the advertisement of a bed and breakfast home or transient vacation unit without including in the advertisement the tax map key number and the nonconforming use certificate number or the registration number assigned to the bed and breakfast home or transient vacation unit.
- (2) It is unlawful for any person to advertise or cause the advertisement of a dwelling unit that is not a registered bed and breakfast home or transient vacation unit pursuant to Section 21-5.730.2 or operating pursuant to a nonconforming use certificate for a term of less than 180 consecutive days. Any written communication advertising the rental of a dwelling unit that is not registered with the department pursuant to Section 21-5.730.2 or operating pursuant to a nonconforming use certificate must include the following statement: “This property may not be rented for less than 180 consecutive days. Rental prices will not be reduced or adjusted based on the number of days the rental is used or occupied.”
- (c) Advertisements as evidence of rental activities. An advertisement that does not comply with subsection (b)(2) is prima facie evidence that the property being advertised is used as a bed and breakfast home or a transient vacation unit. If an enforcement order is issued to a property owner for using their property as an illegal bed and breakfast home or transient vacation unit based on an advertisement, the property owner will have the burden of establishing that their property has not been used as a bed and breakfast home or transient vacation unit.



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(d) Exemptions. The following are exempt from the provisions of this Section:

- (1) Legally established hotels.
- (2) Legally established time-sharing units, as provided in Section 21-5.640; and
- (3) Publishing companies and internet service providers will not be held responsible for the content of advertisements that are created by third parties."

SECTION 21. Chapter 21, Article 5, Revised Ordinances of Honolulu 1990, as amended, is amended by adding a new Section 21-5.730.5 to read as follows:

"Sec. 21-5.730.5 Violations, complaint, response, and enforcement.

(a) Complaint relating to short-term rentals. Any person may submit a written complaint to the director reporting a suspected violation of the provisions of Sections 21-5.730.1 through 21-5.730.4. A complaint submitted to the department pursuant to this section must:

- (1) Identify the address of the suspected bed and breakfast home or transient vacation unit, including the apartment or unit number of the dwelling unit if it is located in a multifamily dwelling;
- (2) State all of the facts that cause the complainant to believe that a violation has occurred;
- (3) Identify the provisions of Sections 21-5.730.1 through 21-5.730.4 that have been violated; and
- (4) Provide the complainant's name and mailing address.

(b) Response to complaints. Within 30 days of receiving a complaint that complies with subsection (a), the director must provide a written response to the complainant either:

- (1) Declining jurisdiction over the complaint, in which case the complainant may pursue judicial relief pursuant to Section 46-4(b), HRS;



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- (2) Explaining why the complaint does not describe an apparent violation of Sections 21-5.730.1 through 21-5.730.4. A response issued under this subsection may be appealed to the Zoning Board of Appeals pursuant to Section 21-1.40; or
- (3) Advising the complainant that the director has initiated an investigation of the complaint.”

SECTION 22. Table 21-9.6(A), Revised Ordinances of Honolulu 1990, as amended, is amended by amending the entries for “bed and breakfast home,” “hotel,” and “transient vacation unit” as follows:

“Table 21-9.6(A) Waikiki Special District Precinct Permitted Uses and Structures			
Use or Structure	Precinct		
	Apartment	Resort Mixed Use	Public
Bed and breakfast homes	[Pe]	[P/e]	
Hotel	P/c	[P] P/c	
Transient Vacation Units		[P/e]”	

SECTION 23. Chapter 21, Article 10, Revised Ordinances of Honolulu 1990, as amended, is amended by deleting the definitions of “booking service” and “hosting platform.”

~~“Booking service” means any reservation or payment service provided by a person that facilitates a transaction between an owner, operator, or proprietor of a bed and breakfast home or transient vacation unit, and a prospective user of that bed and breakfast home or transient vacation unit, and for which the person collects or receives, directly or indirectly through an agent or intermediary, a fee from any person in connection with the reservation or payment services provided for by the transaction.~~

~~“Hosting platform” means a person that collects or receives a fee from any person for booking services through which an owner, operator, or proprietor of a bed and breakfast home or transient vacation unit may offer use of the bed and breakfast home or transient vacation unit. Hosting platforms typically, but not necessarily, provide~~



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~~booking services through an online platform that allows the owner, operator, or proprietor to advertise the bed and breakfast home or transient vacation unit through a website provided by the hosting platform, and the hosting platform conducts a transaction by which potential users arrange the use of and payment for the bed and breakfast home or transient vacation unit, whether the payment is made directly to the owner, operator, or proprietor, or to the hosting platform.”]~~

SECTION 24. Chapter 21, Article 10, Revised Ordinances of Honolulu 1990, as amended, is amended by amending the definitions of “bed and breakfast home”, “hotel”, and “transient vacation unit” to read as follows:

““Bed and breakfast home” means a use in which overnight accommodations are advertised, solicited, offered, or provided~~[, or a combination of any of the foregoing,]~~ to ~~[guests]~~ transient occupants, for compensation, for periods of less than ~~[30]~~ 180 consecutive days~~;~~ in the same ~~[detached]~~ dwelling unit ~~[as that]~~ occupied by ~~[an]~~ the owner, lessee, operator, or proprietor of the ~~[detached]~~ dwelling unit. For purposes of this definition:

- (1) ~~[C]~~compensation includes, but is not limited to, monetary payment, services, or labor of guests;
- (2) Accommodations are advertised, solicited, offered or provided to guests for the number of days that are used to determine the price for the rental; and
- (3) Month to month holdover tenancies resulting from the expiration of long-term leases of more than 180 days are excluded.

“Hotel” means a building or group of buildings containing lodging and/or dwelling units ~~[offering]~~ that are used to offer transient accommodations to guests~~;~~. A hotel building or group of buildings must contain [and] a lobby, clerk’s desk or counter with 24 hour clerk service, and facilities for registration and keeping of records relating to hotel guests. A hotel may also include accessory uses and services intended primarily for the convenience and benefit of the hotel’s guests, such as restaurants, shops, meeting rooms, and/or recreational and entertainment facilities.

““Transient vacation unit” means a dwelling unit or lodging unit that is advertised, solicited, offered, or provided~~[, or a combination of any of the foregoing, for compensation]~~ to transient occupants, for compensation, for periods of less than [30] 180 consecutive days, other than a bed and breakfast home. For purposes of this definition,



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- (1) ~~[C]~~compensation includes, but is not limited to, monetary payment, services, or labor of guests;
- (2) Accommodations are advertised, solicited, offered or provided to guests for the number of days that are used to determine the price for the rental; and
- (3) Month to month holdover tenancies resulting from the expiration of long-term leases of more than 180 days are excluded.

SECTION 25. Chapter 21, Article 10, Revised Ordinances of Honolulu 1990, as amended, is amended by adding new definitions for "condominium hotel" and "hotel unit" to read as follows:

"Condominium hotel" means a hotel in which hotel units are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of the hotel units subject to a condominium property regime."

"Hotel unit" means a dwelling unit or a lodging unit located in a hotel building."

SECTION 26. Ordinance material to be repealed is bracketed and stricken. New ordinance material is underscored. When revising, compiling or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the Revisor of Ordinances need not include the brackets, the material that has been bracketed and stricken, or the underscoring.

SECTION 27. Severability. If any provision or application of this ordinance is held invalid, the remainder of this ordinance and its application to other persons or circumstances shall not be affected.



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SECTION 28. This ordinance shall take effect on \_\_\_\_\_, 2021.

INTRODUCED BY:

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DATE OF INTRODUCTION:

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\_\_\_\_\_  
Honolulu, Hawaii

\_\_\_\_\_  
Councilmembers

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Deputy Corporation Counsel

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2021

\_\_\_\_\_  
Rick Blangiardi, Mayor  
City and County of Honolulu



GOLDWATER  
INSTITUTE

PROTECTING PRIVATE PROPERTY RIGHTS

# THE PROPERTY OWNERSHIP FAIRNESS ACT

By Christina Sandefur, Executive Vice President &  
Timothy Sandefur, Vice President for Litigation

# EXECUTIVE SUMMARY

**IN** 2005, the Supreme Court's decision in *Kelo v. City of New London* shocked the nation when it rubber-stamped a decision by state officials to seize private homes by eminent domain to make way for private redevelopment projects. In response, lawmakers on both sides of the political aisle began passing new state laws aimed at protecting property owners from government takings.

Despite these efforts at reform, governments have found plenty of loopholes allowing them to abuse property owners by condemning land or by changing the rules that govern how owners can use their property, sticking them with the mortgage, the taxes, the potential liability if someone slips and falls on the property—and often wiping out the property's market value. Ten years after *Kelo*, most federal and state courts still do little to protect landowners when government declares their property "blighted" or takes away the right to use property as one wishes.

In response to the rampant abuses that remain even in the wake of post-*Kelo* reforms, the Goldwater Institute has developed a cutting-edge initiative to limit government's power to seize land outright through eminent domain or through the more insidious method of overregulation. The Act (1) ensures that government can only condemn private property for truly public uses, not to help out developers or advance political agendas, and (2) requires government to pay owners when its regulations reduce their property values without actually ensuring public health and safety. The Act is a principled, practical solution that strikes a fair balance: it allows government to bar property uses that threaten public health or safety, but it also bars officials from sticking property owners with the bill when land-use restrictions go beyond what's necessary to protect the public.

In 2006, Arizona voters approved a version of the Act<sup>1</sup> by a 2:1 margin. It is by far the nation's strongest protection for property rights. In its decade of operation, the Act's success has sent a message to officials that they cannot expect to take Arizonans' property without paying for it, nor can they redesign neighborhoods to serve the interests of politically powerful developers at the expense of home and small-business owners. Now, building on this success, the Property Ownership Fairness Act can be used to protect citizens in the other 49 states.



# THE TROUBLING STATE OF PRIVATE PROPERTY RIGHTS TODAY

**N**early a decade ago, the United States Supreme Court delivered one of the most controversial opinions in its history: *Kelo v. City of New London*,<sup>2</sup> upholding a decision by state officials to seize private homes through eminent domain to make way for a massive redevelopment project to benefit powerful private developers. The ruling triggered outrage across the political spectrum. In response, Americans sought to safeguard their property rights through reforms at the state level. While some of these endeavors were successful, most were hampered by loopholes or ineffective tinkering with procedural details, thus leaving property rights as vulnerable as ever.<sup>3</sup>

Arizona was different. In 2006, that state's voters overwhelmingly approved the Private Property Rights Protection Act,<sup>4</sup> by far the strongest protection for property rights in the nation. Although opponents of reform warned that the Act would hamper government's ability to protect citizens and would sap taxpayer dollars to benefit wealthy landholders, the opposite has proven true. The Act has proven a marked success story—improving government efficiency and securing Arizonans' right to their possessions, with none of the chaos opponents predicted. The Act is an excellent model for states that want to provide meaningful security for one of the most essential human rights: the right of property ownership.

## SEIZING PROPERTY

Eminent domain—the government's power to seize private property for a public use in exchange for payment that the government considers “just compensation”—was historically used to construct roads, canals, post offices, or military bases. Unfortunately, that power has been expanded to the point that state and local governments today regularly condemn people's property to transfer it to private companies in the name of “creating jobs” or increasing tax revenues.

That was the justification given by one Arizona city when it decided to seize Bailey's Brake Service, a family business that had served hundreds of customers in the Phoenix suburb of Mesa since the 1970s. Randy Bailey bought the shop from his father in 1995 intending to carry on the family legacy. But the city had other plans: it wanted to use eminent domain to demolish his shop and give the land—along with a \$2 million subsidy—to a private hardware store that wished to relocate to Bailey's site. Bailey challenged the condemnation in court, arguing that it violated the federal and Arizona constitutions, both of which only allow the use of eminent domain for *public* uses such as highways, not for private uses like hardware stores.

Following the ruling in the federal *Kelo* case, Mesa officials argued that the increased tax revenue that the hardware store would generate was a “public benefit” that justified the taking, and the trial court agreed. But the Arizona Court of Appeals reversed that decision. It held unanimously that under the state constitution, the “requirement of ‘public use’ is only satisfied when the public benefits and characteristics of the intended use substantially predominate over the private nature of that use.”<sup>5</sup> Taking property from one private party to give to another did not fit the bill—even if doing so might result in some general “benefit” to the public. The state Supreme Court did not consider the case.

Although Randy Bailey won his battle and kept his property, a large loophole remained, as property rights were still vulnerable to unsubstantiated “blight” designations. In many states, including Arizona at that time, government can condemn un-blighted property simply because it is located next to an unsafe area or blighted property. Vague legal definitions also meant blight was the eye of the beholder.

In neighboring California, for example, the legal definition of “blight” is so broadly worded that almost any property in the state can be targeted for condemnation at any time. Community officials may declare a neighborhood blighted whenever they pass a resolution proclaiming that “physical” and “economic” blight is present. But these terms are defined by vague guidelines, including: “[f]actors that ... substantially hinder the economically viable use ... of buildings ... [including] substandard design, inadequate size given present standards and market conditions, [or] lack of parking,” “adjacent or nearby

uses that are incompatible with each other and which prevent the economic development of ... the project area," and "the existence of subdivided lots of irregular form and shape and inadequate size for proper usefulness and development that are in multiple ownership." <sup>6</sup>

In Ohio, the city of Lakewood declared a tidy, middle-class neighborhood "blighted" so that it could make way for a luxury condominium development. The city's standards for determining when a neighborhood was "blighted" included such issues as whether the houses had two-car garages and central air conditioning.<sup>7</sup>

Such ambiguous rules empower local governments to declare virtually anything blighted. This problem is worsened by the fact that most states do not require that a property itself be blighted before it can be condemned. Most state "redevelopment" laws let local officials declare an entire area blighted, even if it includes well-maintained homes or successful businesses. What's more, a blight designation is not made through a court proceeding, where legal rules of evidence apply, but through an administrative vote by local officials. In most states, such a vote cannot be challenged later in court except under the most extreme circumstances—and property owners always bear the burden of *disproving* the existence of blight. That would be hard enough, since it's not possible to prove a negative, but some states use the so-called "substantial evidence" test, which makes that burden even more difficult. Though the name implies that the government must show a substantial amount of proof to declare property blighted, the "substantial evidence" test actually means courts must rule in favor of the government if there is any evidence whatever to support the government's declaration of blight.<sup>8</sup> Such extreme deference to city officials means that virtually no blight designation is ever found to be unwarranted.

Finally, state laws are usually biased toward the government when it comes to the types of "evidence" officials can rely upon when they declare a neighborhood blighted.<sup>9</sup> Some cities have used so-called windshield surveys, meaning that a consultant hired by the city drives through the neighborhood and later submits a report listing factors that support the declaration of blight.<sup>10</sup> In one California case, officials declared a large section of Fresno blighted on the basis of a windshield survey that suggested

that some buildings in the area were constructed at a time when lead paint was widely used—but which did not even show that any actual lead paint was found on the buildings.<sup>11</sup> Still, a city's declaration of blight cannot be overturned unless a property owner proves that there is no evidence whatsoever to support it.<sup>12</sup>

Eminent domain is almost entirely a matter of state law: the federal government rarely undertakes anti-blight projects on its own, and the laws of each state typically dictates the process of condemnation.<sup>13</sup> After the controversy over the *Bailey* case, many Arizonans feared that the state's Supreme Court might follow in the path of the *Kelo* decision and reduce the already limited protections they enjoyed under state law. They had good reason to worry, given that that court had provided virtually no protections for property owners whose land was taken, not directly through eminent domain, but through the indirect method of "regulatory" takings.

## TAKING PROPERTY RIGHTS THROUGH REGULATION

While in an eminent domain case, the government takes outright ownership of a person's property, the government can also take away property through regulations that prohibit owners from using, selling, or building on their land. Such restrictions block people from pursuing the purpose for which they bought the property—thus taking away their property rights just as much as an eminent domain condemnation does—but because the government does not technically take the *title* to the land, judges often hold that owners are not entitled to any "just compensation." People are therefore forbidden from using their property, but they are stuck with the purchase price, the taxes, the loan payments, and the possible liability if someone is injured on the land. Yet such regulations often destroy the property's value, meaning the owner also cannot sell it. In the 1870s, the U.S. Supreme Court warned that allowing the government to evade the just compensation requirement through the trick of leaving the owner in technical possession while taking away his rights to use the land "would pervert the constitutional provision . . . and make it an authority for invasion of private right under the pretext of the public good, which had no warrant in the laws."<sup>14</sup> Sadly, state and federal court rulings since then have allowed government to do just that.

Arizona courts were as culpable as any state's

when it came to these regulatory takings. Before the Private Property Rights Protection Act, citizens could rarely obtain the just compensation their constitution promises them unless the property restriction completely destroyed the market value of their land. When Kent and Judith Wonders sought permission to develop their property in Pima County, the local board of adjustment demanded that they set aside 45 acres as habitat to preserve native plants. Because this open-space dedication destroyed “only” 30 percent of their property value, and they had “not been deprived of *all* economically beneficial use of [their] land,” the court ruled that the Wonders had not suffered any taking, and were entitled to nothing.<sup>15</sup> Following federal and state precedents that since the 1970s had essentially eliminated constitutional protections against regulatory takings, the court held that almost any government restriction on property use that fell short of a total wipeout was exempt from the compensation requirement. Only when a property owner could show that the government regulated his property so extremely as to “preclude its use for any purpose to which it is reasonably adapted” was the government required to pay for what it took away.<sup>16</sup>

## SHUTTING DOWN THE SHARING ECONOMY

Consider just one of the many ways land-use regulations stifle economic opportunity by interfering with the rights of homeowners: restrictions on short-term rentals. The advent of the so-called Sharing Economy has opened new opportunities for property owners to make money and improve their local economies—and to benefit consumers with more choice and lower prices. Airbnb and VRBO.com in particular have opened a new era for vacationers and others who are looking for places to spend the night, the weekend, or longer. To get a sense of how profound this revolution is, consider that Airbnb



**The state of Glenn Odegard's Jerome property when he bought it.**

alone offers more rooms than major international hotel chains such as Hilton and Marriott<sup>17</sup> and makes up about 8 percent to 17 percent of the short-term rental supply in New York City alone.<sup>18</sup> With expensive hotels no longer the only option, short-term rentals bring people to new destinations and encourage them to patronize the local economy and experience the local atmosphere. In 2013, visitors to Coachella Valley, California, booked over a quarter-million nights at short-term rental homes, pouring more than \$272 million into the local economy and creating 2,500 jobs.<sup>19</sup>

Unfortunately, regulators have responded not by welcoming these innovations with open arms, but by driving them out of business. Powerful hotels and vocal neighbors are successfully urging cities to ban property owners from offering their homes to travelers, despite the fact that these restrictions have no connection to the government's legitimate functions of protecting people's health and safety. From New York City<sup>20</sup> to Santa Monica,<sup>21</sup> places with bustling tourism economies are rushing to restrict homeowners from offering rooms in their homes to travelers. Honolulu, which already prohibits rentals of fewer than 30 days, is considering raising fines to \$10,000 per day for homeowners who offer short-



**Glenn Odegard's home after its historic restoration.**

term rentals.<sup>22</sup> Other cities are imposing burdensome restrictions though not complete bans. Rancho Mirage, California, requires at least one occupant to be 30 years old, thus discriminating against legal adults who are younger.<sup>23</sup> Nashville, Tennessee, limits the number of properties that may be "non-owner-occupied short-term rentals" to 3 percent, meaning that property owners like P.J. and Rachel Anderson—a young couple who are often on the road for P.J.'s job and who rent their home while they are away to supplement their income—are out of luck, as is Lindsey Vaughn, who bought a property with the hope the rental income would help fund her children's college education.<sup>24</sup>

These restrictions reveal a growing belief that an individual's private property should be micromanaged by regulators, despite the fact that they are often more interested in serving vocal special interests, such as the hotel industry, than in respecting the rights of property owners. Such efforts do not just hurt tourism, they also reduce property values, drive up the costs of travel and lodging, and put entrepreneurs out of business. Unfortunately, most states fail to protect unsuspecting property owners and entrepreneurs from these extreme regulations.

In 2008, the city of Sedona, a popular Arizona

tourist destination, made renting residential property for fewer than 30 days a *crime*, punishable by up to six months in jail and a \$2,500 fine. Astonishingly, the ordinance defined "rent" so broadly that the term could apply to purchasing a time-share, contracting for home improvements, and even hiring a babysitter.<sup>25</sup> Other Arizona cities are following in Sedona's footsteps.

In 2012, Glenn Odegard bought a century-old home in historic Jerome, an old Arizona mining town known as "America's Most Vertical City" because of its steep streets and 5,200-foot elevation.

Founded in 1876, Jerome was a copper boomtown with a peak population of 15,000 in the 1920s, but since the mine's

closing in 1953, the population has dwindled to about 450. The remaining residents have sustained the town by transforming it into a tourist destination with ghost tours, art galleries, bed-and-breakfasts, restaurants, bars, and shops.

Glenn tried to contribute to that restoration by resuscitating a home that had been abandoned and left vacant for 60 years after a landslide filled it with rocks and mud. Intending to offer it as a vacation rental, Glenn lovingly restored the dilapidated house to its original historic condition. His successful efforts earned the home a feature in *Arizona Highways* magazine and a spot on the Jerome Historic Home and Building Tour. Yet despite issuing the relevant permits and initially embracing Glenn's home renovation, town officials decreed he could no longer use the home as a vacation rental. Under the town's newly announced ban, Glenn and other homeowners face fines of \$300 and up to 90 days in jail for each day they allow paying guests to stay. His "reward" for the investment of his time, money, and labor was to be considered an outlaw.

Sadly, state courts routinely uphold vacation rental bans, on the theory that "preserving the character and integrity of residential neighborhoods" and "securing affordable housing for permanent

residents” (by forcibly keeping housing values down) are legitimate goals the government may pursue by restricting private property rights. Because owners can still rent their property *long-term* and live in the homes themselves, short-term vacation rental bans generally do not destroy the *entire* economic value of a home, meaning that under the laws of most states, owners are not entitled to any compensation, no matter how much the restriction costs them.<sup>26</sup>

While it is understandable that neighbors don’t want loud renters next door or excessive traffic on their streets, those concerns are already addressed by existing city ordinances that forbid noise or other nuisances. Diverting valuable resources to policing short-term rental bans and negotiating petty arguments between neighbors, instead of enforcing the anti-nuisance laws already on the books, does nothing to improve neighborhoods.<sup>27</sup> Anti-short-term rental laws are more effective at creating “Not In My Back Yard”-style barriers that punish residents for letting guests use their homes, than they are at ensuring the fair treatment of all homeowners. Meaningful protections for property rights—like the Property Ownership Fairness Act—encourage cities to focus on enforcing legitimate rules against noise and traffic congestion, instead of imposing new restrictions that only drive up the cost of living, hurt local businesses, and violate the rights of property owners.

## THE PROPERTY OWNERSHIP FAIRNESS ACT

**I**N response to the rampant property rights violations that remain even after the wave of post-*Kelo* reforms, the Goldwater Institute has developed a cutting-edge initiative that limits government’s power to seize land outright through eminent domain or through the technical loophole of overregulation. The Act (1) ensures that government can only take private property for truly public uses, not to help out developers or advance political agendas, and (2) requires government to compensate owners when regulations that do not serve public health and safety goals reduce the value of their property. Based on the Arizona experience



but incorporating the lessons learned in the decade since its enactment, Goldwater’s model Property Ownership Fairness Act provides a principled, practical solution that respects property rights while respecting the need for rules that protect the public.

### EMINENT DOMAIN REFORM

To ensure against *Kelo* or *Bailey*-style takings, the Act declares outright that the phrase “public use” “[d]oes not include the public benefits of economic development, including an increase in tax base, tax revenues, employment or general economic health.” This means that local officials may declare property to be blighted—and thus a target for condemnation—only when that property



*Anti-short-term rental laws are more effective at creating “Not In My Back Yard”-style barriers that punish residents for letting guests use their homes, than they are at ensuring the fair treatment of all homeowners.*

is unsafe or abandoned, not when they hope to replace existing homes or businesses with shopping malls that will increase tax revenue.

But the Act offers additional protections. First, rather than placing the burden of proof on the citizen trying to keep his property, the Act holds responsible the government trying to take it. This means officials must prove that the condemnation is necessary to eliminate the public danger. Also, the government must prove this fact by “clear and convincing” evidence, rather than the far lower standard of “substantial” evidence. This is critical, because it reverses the biased rule of “deference” that in many cases—including *Kelo*—requires judges to look the other way when government abuses its eminent

domain powers.

The Act also requires the government to prove that it must condemn *each* piece of property before taking action—rather than condemning whole neighborhoods on the basis of some properties’ poor condition, as is the current practice in most states. As an additional protection against the confiscation of homes to make way for high-end shopping malls, if government takes a person’s principal residence, it must pay the owner enough to buy a comparable home.

Finally, to prevent the government from low-balling property owners or intimidating them with the prospect of having to hire expensive lawyers, the Act requires the government to pay property owners’ attorney fees if the court finds that the taking was not

for a legitimate public use or that the government offered less than truly just compensation. It also forbids the court from forcing property owners to pay the government's attorney fees.

## REGULATORY TAKINGS REFORM

In addition to eminent domain reform, the Property Ownership Fairness Act requires state and local governments to compensate owners when their regulations reduce the value of property in ways not justified by public safety needs. The Act provides that if government limits "the existing rights to use, divide, sell, or possess private real property," and that restriction reduces the property's fair market value, government must pay the owner just compensation, except in cases where the restriction is an exercise of government's proper authority to protect the general public. In other words, while owners can be barred from engaging in pollution, maintaining dangerous conditions on their property, or using their land in ways that violate the rights of their neighbors, they cannot be prohibited from building or renovating homes or operating legitimate businesses—nor can they be forced to use their land in ways they don't want to—unless the government pays them for depriving them of their property rights.

One early effort to protect people from regulatory takings was Oregon's Measure 37 in 2004. Although initially popular with voters, it proved unsuccessful and was largely repealed only three years later, in part because it was retroactive. Aggrieved property owners were allowed to file claims for regulatory takings that had occurred before the law was put in place. That resulted in more than 6,800 claims totaling over \$19 billion in just the three years after the measure's adoption.<sup>28</sup> Of course, the reason for this high volume of claims was that government officials had been taking too much from too many people. But the flood of claims—and the complicated network of lawsuits it unleashed—understandably frightened taxpayers.

The Property Ownership Fairness Act is carefully designed to avoid that retroactivity problem: it applies only to restrictions on *existing* rights to use, and only to laws passed *after* the property owner acquires the land. Also, a property owner is not entitled to compensation for land-use restrictions unless they *directly* regulate the land—something Measure 37 left unclear. Further, the Act places no limitation on the state's legitimate police powers: it

need not compensate owners for regulations that pertain to public health and safety, or that abate public nuisances, or that lawfully limit drug- or adult-oriented businesses, or that establish such public utility facilities as a waterworks. But while these exemptions allow government to perform its proper functions as the defender of the public safety, they are carefully designed to prevent bureaucrats from exploiting them as loopholes. Of course, if none of these exceptions applies, the government can still restrict a property owner's rights—nothing in the Act bars the government from regulating property in any way—just so long as it pays for the costs it imposes on owners.

Pro-regulation forces sometimes argue against compensating for regulatory takings on the grounds that the government often restricts how people use property, therefore it makes no sense to require payment for such restrictions.<sup>29</sup> Justice Oliver Wendell Holmes put this argument succinctly when he wrote that "government hardly could go on if to some extent values incident to property could not be diminished without paying for every such change."<sup>30</sup> But this confuses two fundamentally different kinds of laws: those that protect individual rights, such as laws against theft or fraud, and those that provide society with public benefits. Laws that secure individual rights are enacted under the government's police power. They may in some sense reduce the value of a piece of property, but the government need not pay for these reductions because the activities restricted were wrong to begin with. Government is not required to compensate a robber when the policeman takes his gun away, or to pay people when it bars them from polluting their neighbors' property, because these things do not deprive the owner of anything he had the right to do in the first place. But laws that go beyond that limit and restrict legitimate property uses—such as laws that forbid people from renting rooms in their homes, or that force property owners to provide the public with things such as parks or wildlife habitats that would otherwise be paid for by tax dollars—are a different matter. Those laws *do* deprive owners of what is justly theirs, in order to benefit society. They are therefore similar to eminent domain condemnations, and the same just compensation requirement should apply.

Some have argued against compensating property owners for regulatory takings on the grounds that such compensation is simply too

expensive. Indeed, the U.S. Supreme Court declared in a 2002 case that requiring compensation for the many different ways government takes away people's property "would transform government regulation into a luxury few governments could afford."<sup>31</sup> But the fact that a person—or the government—cannot afford to pay for what it takes is not a good reason for excusing it from its constitutional duty to justly compensate. On the contrary, that is good reason for government to show more restraint. After all, the costs of regulation are always eventually borne by *somebody*. If the government pays owners for taking their property, then the taxpayers pay the burden. If it does not, then that burden is borne by the owners who lose their property.<sup>32</sup> But as the Supreme Court has also acknowledged, the reason just compensation is required is because it is neither fair nor just to force individual property owners to pay the full cost of public burdens that "should be borne by the public as a whole."<sup>33</sup> When the costs of providing public goods—whether they be a wildlife habitat or a neighborhood without vacation rentals—fall on a single person or a small group, then the public should compensate the owners for their losses.<sup>34</sup>

## FILING A CLAIM FOR JUST COMPENSATION

The Property Ownership Fairness Act includes a simple process to file a claim for compensation, designed to allow government and property owners to negotiate a settlement without having to go to court. Within three years of the time the restriction on use is first applied to property, the owner must send a simple letter to the government requesting just compensation. No clumsy, time-consuming administrative review process is involved. Instead, the government has 90 days to decide whether to restore the property rights by waiving the land-use restriction or to pay the owner for taking those rights away. If the government chooses not to apply the restriction, that waiver can be passed down to later owners of the property. If the government either rejects the claim letter or takes no action within three months, the owner can ask a court to order compensation. And because the government must pay a successful property owner's legal bills, bureaucrats have an incentive to cooperate and resolve disputes before going to court.

The Act was designed to enable private citizens to file a claim without having to hire an attorney.

Lowering the costs and burdens of establishing a claim increases the likelihood of settlement without lengthy and expensive lawsuits, and helps discourage governments from exploiting property owners who do not know the law. The Act is therefore a substantial improvement over the efforts by some states to protect people from regulatory takings, because most states have not done much to reduce the difficult process of filing claims. Florida's Harris Act, for example, includes what that state's courts have called "complex presuit requirements."<sup>35</sup> And the Harris Act authorizes compensation only for as-applied challenges to governmental action,<sup>36</sup> meaning that property owners cannot recover for reductions in property rights that result from across-the-board regulations that diminish the property values of all owners equally.<sup>37</sup>

## RECOVERY FOR PARTIAL TAKINGS

The Property Ownership Fairness Act also addresses the issue of partial takings—known as the "relevant parcel problem"—which has long bedeviled property owners. The problem arises when a land-use restriction deprives an owner of a portion of the property's value—for example, 10 percent. Here is the question: should the court treat this as a complete taking of the 10 percent, which under federal law would mean compensation is owed, or as only a small reduction in the value of the whole, in which case the owner is entitled to nothing? Many state and federal courts have taken the latter route. In some egregious cases, courts have interpreted "the property" not only in terms of physical dimensions, but also in terms of *time*, meaning that a "temporary" prohibition on the right to use property—even if it lasted for decades—would not entitle the owner to any compensation, because the owner would be allowed to use it in some way if the prohibition were ever lifted.<sup>38</sup>

This Act prevents such an unjust outcome by defining "just compensation" as "the sum of money that is equal to the reduction in fair market value." Thus if a regulation deprives an owner of 10 percent of the property's value, the owner must be paid for that 10 percent loss. The Act makes no exception in terms of time, and because it provides the government with an opportunity to waive the restriction, the possibility that owners might lose their property to "temporary" prohibitions is reduced.

## PROPERTY OWNERSHIP FAIRNESS ACT: AN OVERVIEW

- ★ Restricts government's use of eminent domain to instances where (1) the use of eminent domain is authorized by state law, (2) the condemnation is necessary to that use, and (3) the use is truly public (as defined by the Act).
- ★ Puts burden on government to prove blight by real evidence, and requires courts to make a genuine decision on that question instead of deferring to the government.
- ★ Requires government to buy the owner a comparable home if it takes a home for slum clearance or redevelopment.
- ★ Requires government to pay owners when regulations that do not genuinely protect public health and safety take away property rights and reduce the value of their land.
- ★ Institutes a swift, simple claim process that allows regulatory takings claims to be resolved without the need for attorneys or lawsuits.
- ★ Requires government to pay owners' attorney fees and court costs when they successfully challenge the misuse of eminent domain or regulation.
- ★ Prohibits government from assessing attorney fees and costs against property owners.





## A DECADE OF SUCCESS

**I**n the short time that Arizona's version of the Act has been on the books, the state's property owners have enjoyed greater protections for their rights. Below are some examples of the law's successes.

### **MIKE GOODMAN'S TUCSON RENOVATIONS**

Mike Goodman was on a mission to revitalize downtown Tucson and the area near the University of Arizona. He bought run-down structures to replace them with upscale modern housing that could accommodate more people. His renovations were built to standards that exceeded the city's zoning requirements, and his work increased local property values and helped meet the demand for housing caused by the university.

But the antidevelopment city council had other plans. After Goodman bought the land, acquired the necessary permits, and began construction, the

council passed an anti-demolition ordinance that forced all property owners wishing to remove old structures from their property to navigate a sea of red tape. Owners were required to conduct "historical impact studies" and satisfy a long checklist of vague, subjective criteria before they could obtain a permit. The city even asserted that it could order the property sold to another buyer. This byzantine process applied to all "historic" properties, which the city defined to include any structure over 45 years old. In the name of "historic preservation," the city restricted property rights, slashed property values, and ruined plans to improve Tucson's decrepit neighborhoods. Arizona's newly enacted property protection Act was about to be put to the test.

When the case went to trial, the judge rebuked Tucson for trying to evade the law's requirements by hiding its restrictions in the city's building code instead of openly admitting that a new restriction had been imposed. Unfazed, the city reenacted the

ordinance, this time embedding the law in zoning rules and calling it a health-and-safety enactment, so as to claim exemption from the Act's compensation requirement. But another judge refused to go along with that, too. Declaring that Tucson could not ignore "the public's interest in laws requiring compensation for partial regulatory takings," the court ruled that owners like Goodman were entitled to compensation for the city's deprivation of their property rights.<sup>39</sup> Were the city allowed to get away with evading the Act's requirements, the protections that voters approved—"part of a greater effort and movement in favor of individual rights"—would be rendered "superfluous and obsolete."

Government officials often lament the costs of compensating property owners for the regulatory costs they impose. But regulation always comes at a cost to someone. Before Arizona's Act was adopted, those costs were borne by individual property owners who—lacking legal tools with which to defend themselves—were simply deprived of their property value without compensation whenever government officials came up with a "better" idea for how a person's property should be used. For example, "historic preservation" ordinances forced property owners to maintain old buildings that they would have preferred to replace or renovate, in order to provide the public with a "scenic" neighborhood, with the expenses paid, not by the public, but out of the property owners' own pockets. The Act shifts those costs back where they belong—onto the government that imposes them in the first place. Although payment is not required when regulations protect public health and safety, any restriction that goes further must be paid for by the government. This gives lawmakers a choice: if they think an historic preservation ordinance or wildlife habitat requirement is important enough, they will agree to compensate owners for those impositions. If not, that's all the more reason why individual owners should not be forced to pay those public expenses themselves. Requiring lawmakers to weigh the costs and benefits of the regulatory burdens they impose helps discourage excessive regulation and abuse.

## MORE BALANCED GOVERNMENT

## DECISION-MAKING

By ensuring that elected officials sensibly weigh the real costs and benefits of their land-use regulations instead of merely pretending that restrictions on property are costless, the Arizona Act has helped ensure more efficient government decision-making. Consider two cases in which the risk of liability helped protect the interests of both property owners and taxpayers against government overreaching.

Only two years after the Act was passed, Maricopa County, acting pursuant to a state law that restricted development near Luke Air Force Base, issued a moratorium on building permits for properties in the area. The moratorium had a devastating effect on property values: the value of newly zoned vacant residential lots dropped 95 percent, while existing home values were halved.<sup>40</sup>



Property owners suddenly found themselves barred from renovating their properties, forbidden to install pools in their yards, mount solar panels on their roofs, or undertake urgent electrical and plumbing repairs. Building new homes was out of the question. Air Force veteran Robert Landers was told he could not install the therapeutic spa his doctor had prescribed to him to help recover from surgery. As a result of the moratorium, more than 175 property owners filed nearly \$20 million in claims for compensation. The county, faced with the true costs that its regulation had imposed, rescinded its freeze on permits.<sup>41</sup>

On the other hand, when there is sufficient community interest in historic preservation, the Property Ownership Fairness Act can ensure that public aesthetic values are served most efficiently. Arizona is justly proud of the many architectural masterpieces constructed by Frank Lloyd Wright,

who made Phoenix his winter home during the last two decades of his life. In 1952, he built a home for his son and daughter-in-law—the 2,500-square-foot David and Gladys Wright House, tucked away in the heart of the city’s Arcadia neighborhood. The house bears the signature spiral look of the architect’s famous Guggenheim Museum in New York City. Because the Wrights treated the home as their primary residence until the ends of their lives, it was well used and relatively unknown.

All that changed when Gladys passed away in 2008, and her grandchildren sold the house. It sat vacant for several years before a real estate developer purchased the property for \$1.8 million, with plans to demolish the house and subdivide the lot. Before closing the deal, the developer sought and obtained the government’s permission, but when Wright enthusiasts demanded that the city preserve the house, officials rescinded the demolition permit. Neighbors urged them to designate the property a landmark, thereby freezing development for at least three years.<sup>42</sup>

Changing the rules in the middle of the game unfairly prevents property owners from pursuing the purpose for which they bought the property, and sticks them with the mortgage, the taxes, and often with plummeting property values. The Arizona Private Property Rights Protection Act guaranteed the developer payment for the value lost as a consequence of the moratorium. But as the fight over the Wright house intensified, the matter caught the attention of the Frank Lloyd Wright Building Conservancy, which established a nonprofit to purchase, restore, and maintain the home for educational purposes.<sup>43</sup> Instead of forcing the property owner to pay the cost of foregoing his investment plans or maintaining a property he was unable to use—and rather than forcing taxpayers to bankroll the preservationists’ desires—the Arizona law created an incentive that enabled Wright fans who wanted to save the house, and thought it was worth the price, to pick up the tab themselves. The developer walked away unharmed, and the house is undergoing restoration today.

## **ABUSING ZONING POWERS TO CONTROL PERSONAL CHOICES**

The Property Ownership Fairness Act can even protect the public from the government’s efforts to



impose its preferred social values on the general public. For example, Arizona's Pima County was one of 44 municipalities that received federal "stimulus" money to address obesity within its borders. Pima County lobbied for its share by pledging to use \$15.8 million to implement a comprehensive scheme of restrictions on restaurants, workplaces, and schools all aimed at shrinking residents' waistlines. Perhaps the plan's most egregious goal was something called "obesity zoning," an attempt to micromanage what people eat by restricting the number of fast-food restaurants allowed in a given area.

Such restrictions have proven popular with some city planners who seek to use regulatory power not to protect people from dangerous or fraudulent business practices, but to impose health and lifestyle choices on the public. Los Angeles, for instance, has prohibited the development of new fast-food restaurants in certain low-income areas, even though taking away affordable food does not help low-income families eat better. Detroit forbade certain carryout and drive-in restaurants from operating within 500 feet of a school. The federal Centers for Disease Control has even published recommendations for local officials to use when fashioning zoning restrictions that "support healthy eating and active living" by, among other things, "changing the locations where unhealthy competitive foods are sold," "limit[ing] advertisements of less healthy foods," or employing "traffic calming approaches (e.g., speed humps and traffic circles)" to encourage people to walk instead of drive.<sup>44</sup>

Perhaps most perplexing about the Pima County example is that the obesity plan was to be funded by federal stimulus money, in the name of "creating jobs." But such zoning changes would shut down locally owned businesses, restrict consumer choice, and effect a considerable decline in the value of property zoned for business uses. Destroying businesses and eviscerating property rights does not boost an economy. Instead, "obesity zoning" merely redistributes taxpayer resources to impose dietary decisions that bureaucrats consider preferable, with all the costs borne by citizens and businesses in the form of higher food prices and less freedom of choice. But thanks to Arizona's Private Property Rights Protection Act, Pima's obesity zoning plan would have required the county to compensate owners of restaurants and other businesses harmed by such limitations. After the plan was exposed and

legal action was threatened, the county decided it was not worth compensating affected property owners, and ditched its obesity zoning schemes.<sup>45</sup>

## LESSONS LEARNED

**N**ow that Arizona officials are barred from passing the costs of their regulations on to individual property owners, some have sought ways to evade the Act. Below are a few lessons learned that policymakers in other states can use when drafting meaningful reforms to provide robust protection for private property rights. The model bill language provided in the Appendix incorporates all of these lessons, but policymakers should take care to review the language for consistency with the laws and practices of their own states.

### THE PUBLIC SAFETY EXCEPTION

Because the Act does not require compensation for land-use rules that protect public safety and health, some cities have tried to shoehorn their restrictions on property rights into this exemption. For example, when officials in Sedona tried to ban short-term vacation rentals, they sought to avoid their duty to compensate by asserting that the ban protected public safety. Called upon in a lawsuit to explain how, they offered no evidence, but instead claimed that they needed none because their declaration that the ban protected public safety should have sufficed. Such declarations, they said, are "not subject to second-guessing by the courts."<sup>46</sup>

Fortunately, the Arizona Court of Appeals rejected this argument. When the government diminishes property rights, and claims that doing so is necessary to protect the public, it bears the burden of "establish[ing] by a preponderance of the evidence" that the public safety exemption applies.<sup>47</sup> This ruling was significant because in many other states, as well as in federal court, it is typically property owners who must bear the burden of proving that restrictions on their rights are unconstitutional. This is often impossible, given that the government can usually rely on mere speculation to suggest that maybe, if it did not restrict the right to use property, the public might somehow be harmed. This approach, called the "rational basis test," is usually successful in fending

off efforts by property owners to defend their rights in court.

In the Sedona case, the Arizona judges rejected this deferential theory. If the government's mere assertion were enough to invoke the "public safety" exception, government could simply "incant the language of a statutory exception to demonstrate that it is grounded in actual fact," and nullify the initiative's protections for property rights.<sup>48</sup> Although the state's courts have not yet specified how closely a property regulation must serve a public health problem before being exempt, it is clear that the Act requires realistic judicial review when officials assert the public safety exception, in order to ensure that this is not merely a pretext. It is typically easy for the government to prove that a land-use law clearly and directly protects public health and safety, when that is true. In the Sedona case, the court used the example of laws that prevent people from accumulating waste in their yards, which obviously relate to health and safety because they prevent "insects, rodents, snakes and fire."<sup>49</sup> Likewise, floodplain ordinances have a "commonsense, self-evident nexus" to preventing emergencies and protecting lives and property.<sup>50</sup> On the other hand, the court observed, "the nexus between prohibition of short-term occupancy and public health" was "not self-evident."<sup>51</sup> If officials didn't want to pay property owners for restricting their rights, they had the obligation of demonstrating—by real evidence—that restricting those rights protected the public's health and safety in some meaningful way.

They could not do so. Despite vague references to "the peace, safety and general welfare of the residents," city records showed that officials adopted the rental ban in order to protect the city's "small-town character" and "scenic beauty," not to prevent any public dangers.<sup>52</sup> The complaints officials received from residents all related to general grievances about roadside parking or traffic, or neighbors expressing a desire to live in a "small town" where "you know most everyone." These residents urged the city to ban short-term rentals in order to maintain "a quiet, friendly, family" neighborhood—not to protect public safety.<sup>53</sup>

*Regulatory takings reform is an issue of fundamental fairness—the cost of community desires should not be imposed on property owners alone, but must be paid for by the community.*

Thus the court refused to blindly accept the city's claim that the rental ban was exempt from the compensation requirement.<sup>54</sup>

Even more outlandish were the efforts of Jerome officials to fit their ban on short-term rentals into the "public safety" exemption. They claimed, with apparent seriousness, that banning short-term rentals would protect the safety of pedestrians from out of town, who might not be aware of potholes in the streets, and would maintain sanitation because nonresidents might not know when garbage day is. They even claimed the prohibition would provide enough long-term housing to encourage citizens to run for offices in city government.<sup>55</sup>

These issues are currently the subject of litigation in the Goldwater Institute's lawsuit, *McDonald v.*

*Jerome*.<sup>56</sup> Although Arizona courts have declared that cities must actually prove they are advancing health and safety if they claim exemption from their obligation to pay for reducing property values, courts must still decide how much proof is needed to show that a real public-health problem exists, and whether a given regulation actually resolves that problem. Policymakers in other states looking to pass reforms to protect private property rights should take care to include language that ensures that courts examine government actions that restrict property rights—and do so independently, with a

skeptical eye, instead of deferring to government's assertions of public motives. Otherwise, protections for private property rights could be rendered toothless.

## PROCEDURAL OBSTACLES

Even when armed with robust property-rights protections like the Property Ownership Fairness Act, owners can find the process of seeking compensation cumbersome. Sometimes the legal procedures can be so complex that they effectively deprive property owners of protection. When Flagstaff businessman Paul Turner bought his property to operate a small engineering business, he intended to supplement his income by building a small apartment structure on the property. After he had obtained the necessary permits and laid the foundation for the new building, however, the city passed an ordinance making it illegal to develop his property as planned.

The ordinance slashed his property's value, so Turner filed a claim for compensation and completed all the necessary pre-suit requirements including notifying the city in writing that its new regulations reduced his property value. Arizona's Act requires this step to allow government and property owners a chance to work together to avoid going to court. Upon receiving a claim letter, the government can restore the citizen's property rights, agree to pay compensation, or deny the claim as unjustified. But in Turner's case, the city simply ignored the claim. This meant that after 90 days, the claim was automatically deemed denied. But when Turner hired a lawyer and filed a lawsuit, the city went after him on technicality after technicality, convincing the courts to erect new procedural hurdles along the way. The delays worked to the city's advantage because Turner had filed his claim within the last 90 days of the three-year statute of limitations provided in the Act. Thus by the time the 90-day period had expired, the city had waited long enough that Turner was denied his day in court. Sadly, the loophole the city created remains on the books today, effectively shortening the statute of limitations on Arizona's Act by three whole months.<sup>57</sup> States considering enacting the Property Ownership Fairness Act should take care to address this potential for government to make an end-run around the compensation requirement at the outset.

## WAIVERS

No longer able to lay the cost of regulation on the shoulders of individuals and families, governments at first responded to the Act by seeking ways to circumvent the law and avoid paying just compensation. One of the most common tactics was to demand that property owners seeking development or use permits surrender their property rights in exchange for such permits. The message: Want to convert your carport to a more secure garage? Want to build an extra bedroom to accommodate your growing family? Permission granted—so long as you waive your right to seek compensation, and allow government to impose devaluing restrictions at will. Sometimes these waivers even claim to “run with the land,” depriving future owners of the right to bring such claims.

Waivers may be valid where government seeks to bar a property owner from requesting a rezoning and later claiming that the reclassification diminished his property rights. And in some limited

circumstances, government can demand that a property owner give up something in exchange for a land-use permit.<sup>58</sup> But the broader the waiver, the more likely it violates the Constitution. Government cannot impose unreasonable conditions on the receipt of a development permit, or force people to waive their constitutional rights in exchange for permission to use property that belongs to them.<sup>59</sup> Yet some Arizona cities have tried to do just this, requiring property owners seeking zoning approval to waive all present or *future* claims for compensation resulting from any *subsequent* land use law that “relat[es] to or [is] consistent with” the request.<sup>60</sup> Again, policymakers considering passing a Property Ownership Fairness Act should specify that the government cannot condition an owner's ability to use his or her property on the willingness to relinquish the right to just compensation.

## CONCLUSION

**P**roperty takings reform is an issue of fundamental fairness—the cost of community desires should not be imposed on property owners alone, but must be paid for by the community. When the government takes a citizen's property away, it should pay just compensation—whether the taking is explicit, through eminent domain, or indirect, through regulatory takings. The Property Ownership Fairness Act strikes a fair balance, allowing cities and communities to do the job they are supposed to do—protecting public safety—and even to go further and regulate property for aesthetic or public benefit reasons, so long as they don't stick property owners with the bill. It prevents the abuse of eminent domain and provides a fair and efficient process for people whose property is taken for legitimate public uses. It protects the fundamental human right of private property while respecting the need for rules that protect everyone.

Following on its decade of success (and lessons learned) in Arizona, the Model Property Ownership Fairness Act can protect homeowners in the other 49 states as well. Today, a decade after Arizona enacted its own version, we can inaugurate a new era of nationwide protections for property rights, fairness, and the rule of law. ■

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Christina has won important victories for property rights in Arizona and works nationally to promote the Institute's Private Property Rights Protection Act, a state-level reform requires government to pay owners when regulations destroy property rights and reduce property values. She is also a co-drafter of the Right to Try initiative, now law in 24 states, which protects terminally ill patients' right to try safe investigational treatments that have been prescribed by their physician but are not yet FDA approved for market.

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# APPENDIX

## PROPERTY OWNERSHIP FAIRNESS ACT MODEL LEGISLATION

### § 1: Property may be taken only for public use consistent with this article

Eminent domain may be exercised only if the use of eminent domain is both

(A) Authorized by this state, whether by statute or otherwise; and

(B) For a public use as defined by this article.

### § 2: Just compensation; slum clearance and redevelopment

In any eminent domain action for the purpose of slum clearance and redevelopment, if private property consisting of an individual's principal residence is taken, the occupants shall be provided a comparable replacement dwelling that is decent, safe, and sanitary as defined in federal relocation laws, 42 USC 4601 et seq., and the regulations promulgated thereunder. At the owner's election, if monetary compensation is desired in lieu of a replacement dwelling, the amount of just compensation that is made and determined for that taking shall not be less than the sum of money that would be necessary to purchase a comparable replacement dwelling that is decent, safe, and sanitary as defined in the state and federal relocation laws and regulations.

### § 3: Diminution in value; just compensation

(A) If the existing rights to use, divide, sell, or possess private real property are reduced by the enactment or applicability of any land use law enacted after the date the property is transferred to the owner and such action reduces the fair market value of the property the owner is entitled to just compensation from this state or the political subdivision of this state that enacted the land use law.

(B) This section does not apply to a land use law that:

- (1) Limits or prohibits a use or division of real property if it is narrowly tailored to protect the public health and safety, including rules and regulations relating to fire and building codes, health and sanitation, transportation or traffic control, solid or hazardous waste, and pollution control;
- (2) Limits or prohibits the use or division of real property commonly and historically recognized as a public nuisance under common law;
- (3) Is required by federal law;
- (4) Limits or prohibits the use or division of a property

for the purpose of housing sex offenders, selling illegal drugs, liquor control, or pornography, obscenity, nude or topless dancing, and other adult oriented businesses if the land use laws are consistent with the constitutions of this state and the United States;

(5) Establishes locations for utility facilities;

(6) Does not directly regulate an owner's land; or

(7) Was enacted before the effective date of this section.

(C) The owner shall not be required to submit a land use application to remove, modify, vary or otherwise alter the application of the land use law to the owner's property as a prerequisite to demanding or receiving just compensation pursuant to this section.

(D) If a land use law continues to apply to private real property more than ninety days after the owner of the property makes a written demand in a specific amount for just compensation to this state or the political subdivision of this state that enacted the land use law, the owner may file suit for just compensation in a court in the county in which the property is located, unless this state or political subdivision of this state and the owner reach an agreement on the amount of just compensation to be paid, or unless this state or political subdivision of this state amends, repeals, or issues to the landowner a binding waiver of enforcement of the land use law on the owner's specific parcel. This written demand for just compensation supersedes any other statutory notice or demand requirements.

(E) Any demand for landowner relief or any waiver that is granted in lieu of compensation runs with the land.

(F) An action for just compensation based on diminution in value must be made or forever barred within three years of the effective date of the land use law, or of the first date the reduction of the existing rights to use, divide, sell, or possess property applies to the owner's parcel, whichever is later. A written demand for just compensation made by the owner of the property pursuant to subsection E of this section is an exhaustion requirement that tolls the three-year time period for 90 days or the length of time that it takes of this state or the political subdivision of the state that enacted the land use law to deny the written demand, whichever is less.

(G) The remedy created by this section is in addition to any other remedy that is provided by the laws and constitution of this state or the United States and is not intended to modify or replace any other remedy.

(H) Nothing in this section prohibits this state or any political

subdivision of this state from reaching an agreement with a private property owner to waive the owner's claim for diminution in value only if such claim directly results from a government action requested by the property owner.

#### **§ 4: Burden of proof; eminent domain and diminution in value**

(A) In all eminent domain actions, whenever an attempt is made to take private property for a use alleged to be public, the question whether the contemplated use be really public shall be a judicial question, and determined without regard to any legislative assertion that the use is public.

(B) In any eminent domain action for the purpose of slum clearance and redevelopment, this state or a political subdivision of this state shall establish by clear and convincing evidence that the condemnation of each parcel is necessary to eliminate a direct threat to public health or safety caused by the property in its current condition, including the removal of structures that are beyond repair or unfit for human habitation or use, or to acquire abandoned property, and that no reasonable alternative to condemnation exists.

(C) In any action for just compensation or a diminution in value, the question whether a land use law shall be exempted under Section 3(B) shall be a judicial question, and determined without regard to any legislative assertion that the land use law is exempted. The state or political subdivision of this state that enacted the land use law shall establish by clear and convincing evidence that the land use law is exempt pursuant to Section 3(B).

#### **§ 5: Attorney fees and costs**

(A) A property owner is not liable to this state or any political subdivision of this state for attorney fees or costs in any eminent domain action or in any action for diminution in value.

(B) A property owner shall be awarded reasonable attorney fees, costs, and expenses in every eminent domain action in which the taking is found to be not for a public use.

(C) In any eminent domain action for the purpose of slum clearance and redevelopment, a property owner shall be awarded reasonable attorney fees in every case in which the final amount offered by the municipality was less than the amount ascertained by a jury or the court if a jury is waived by the property owner.

(D) A prevailing plaintiff in an action for just compensation that is based on diminution in value pursuant to Section 3 may be awarded costs, expenses, and reasonable attorney fees.

#### **§ 6: Definitions**

In this article, unless the context otherwise requires:

(A) "Fair market value" means the most likely price estimated in terms of money which the land would bring if exposed for sale in the open market, with reasonable time allowed in which to find a purchaser, buying with knowledge of all the uses and purposes to which it is adapted and for which it is capable.

(B) "Just compensation" for purposes of an action for diminution in value means the sum of money that is equal to the reduction in fair market value of the property resulting from the enactment of the land use law as of the date of enactment of the land use law.

(C) "Land use law" means any statute, rule, ordinance, resolution, or law enacted by this state or a political subdivision of this state that regulates the use or division of land or any interest in land or that regulates accepted farming or forestry practices.

(D) "Owner" means the holder of fee title to the subject real property.

(E) "Public use":

(1) Means any of the following:

(a) The possession, occupation, and enjoyment of the land by the general public or by public agencies;

(b) The use of land for the creation or functioning of public utilities;

(c) The acquisition of property to eliminate a direct threat to public health or safety caused by the property in its current condition, including the removal of a structure that is beyond repair or unfit for human habitation or use; or

(d) The acquisition of abandoned property.

(2) Does not include the public benefits of economic development, including an increase in tax base, tax revenues, employment, or general economic health.

(F) "Taken" and "taking" mean the transfer of ownership or use from a private property owner to this state or a political subdivision of this state or to any person other than this state or a political subdivision of this state.

#### **§ 7: Applicability**

If a conflict between this article and any other law arises, this article controls.

#### **§ 8: Severability**

If any provision of this act or its application to any person or circumstance is held invalid that invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable. ■

# ENDNOTES

<sup>1</sup> Arizona's Private Property Rights Protection Act, A.R.S. 12-1134 et seq.

<sup>2</sup> 545 U.S. 469 (2005).

<sup>3</sup> Most of the state laws passed in the wake of *Kelo* amounted to little more than window dressing, or provided only minor improvements in the procedural details of eminent domain. For a critique, see Timothy and Christina Sandefur, *Cornerstone of Liberty: Property Rights in 21st Century America* (Washington, D.C.: Cato Institute, 2016), 135-39; Ilya Somin, *The Grasping Hand: Kelo v. City of New London and The Limits of Eminent Domain* (Chicago: University of Chicago Press, 2015), ch. 5.

<sup>4</sup> A.R.S. § 12-1131 et seq.

<sup>5</sup> *Bailey v. Myers*, 76 P.3d 898, 904 (Ariz. App. 2003).

<sup>6</sup> Cal. Health & Saf. Code § 33031.

<sup>7</sup> Steven Greenhut, *Abuse of Power: How the Government Misuses Eminent Domain* (Santa Ana, CA: Seven Locks Press, 2004), 242-43.

<sup>8</sup> Courts in California, which has some of the most abusive property rules in the country, are somewhat schizophrenic on this point. Some have declared that blight findings, like most administrative determinations, are subject to the substantial evidence test, see, e.g., *Beach-Courchesne v. City of Diamond Bar*, 80 Cal. App. 4th 388, 400 (2000), but others have said that the standard is even lower. In *Meaney v. Sacramento Hous. & Redevelopment Agency*, 13 Cal. App. 4th 566, 578 (1993), for instance, the court held that "the evidentiary basis for [blight] findings is beyond the reach of judicial scrutiny; the courts may not inquire whether the findings are supported by substantial evidence or by any evidence at all in the administrative record." (emphasis added.) Some California courts have held that the substantial evidence test does not mean "anything goes," see, e.g., *Roddenberry v. Roddenberry*, 44 Cal. App. 4th 634, 651 (1996), but most of the time, they say the opposite. See, e.g., *LeVesque v. Workmen's Comp. App. Bd.*, 1 Cal. 3d 627, 635-37 (1970) ("the function of the appellate court begins and ends with a determination as to whether there is any substantial evidence, *contradicted* or *uncontradicted*, which supports the conclusion reached, *disregarding any evidence in the record contrary to the [conclusion].*" (emphasis added.))

<sup>9</sup> Sandefur & Sandefur, *Cornerstone of Liberty*, 113-14.

<sup>10</sup> *Friends of Mammoth v. Town of Mammoth Lakes Redevelopment Agency*, 82 Cal. App. 4th 511, 540 n. 8 (2004).

<sup>11</sup> *Vagim v. Fresno Redevelopment Agency*, et al., (Fresno Co. Super. Ct. No. 06CECG01795).

<sup>12</sup> See, e.g., *Evans v. City of San Jose*, 128 Cal. App. 4th 1123, 1145-46 (2005).

<sup>13</sup> The federal government does often subsidize redevelopment or anti-blight projects, for example, and has done so since at least the 1950s. See Martin Anderson, *The Federal Bulldozer* (New York: McGraw-Hill, 1967); Nick Sibilla, "It's Time for Congress to Actively Condemn Eminent Domain Abuses," *Forbes*, June 28, 2013, <http://www.forbes.com/sites/realspin/2013/06/28/its-time-for-congress-to-actively-condemn-eminent-domain-abuses>.

<sup>14</sup> *Pumpelly v. Green Bay & Mississippi Canal Co.*, 80 U.S. 166, 178 (1871).

<sup>15</sup> *Wonders v. Pima Cnty.*, 207 Ariz. 576, 581 (App. 2004) (emphasis added).

<sup>16</sup> *Ranch 57 v. Yuma*, 152 Ariz. 218, 226 (App. 1986) (emphasis added).

<sup>17</sup> Weed, Julie, "Airbnb Grows to a Million Rooms, and Hotel Rivals Are Quiet, for Now," *New York Times*, May 11, 2015, [http://www.nytimes.com/2015/05/12/business/airbnb-grows-to-a-million-rooms-and-hotel-rivals-are-quiet-for-now.html?\\_r=0](http://www.nytimes.com/2015/05/12/business/airbnb-grows-to-a-million-rooms-and-hotel-rivals-are-quiet-for-now.html?_r=0).

<sup>18</sup> Ariel Stulberg, "How Much Does Airbnb Impact Rents in NYC?," *The Real Deal*, October 14, 2015, <http://therealdeal.com/blog/2015/10/14/how-much-does-airbnb-impact-nyc-rents/>.

<sup>19</sup> Xochitl Peña, "Vacation Rentals Boost Coachella Valley Economy by \$7M," *Palm Springs (CA) Desert Sun*, November 2, 2014, <http://www.desertsun.com/story/money/business/tourism/2014/11/02/coachella-valley-vacation-rental/18362665>.

<sup>20</sup> Since 2011, New York has banned short-term rentals that last fewer than 30 days. S. Johanna Robledo, "Hey Wanna Rent My Couch?" *New York Magazine*, November 27, 2011, <http://nymag.com/realestate/realestatecolumn/short-term-rentals-2011-12>. Property owners may not offer their non-primary residences as short-term rentals, even if they do so free of charge. *Bd. of Managers of S. Star v. Grishanova*, 969 N.Y.S.2d 801 (Sup. Ct. 2013), app. dismissed, 985 N.Y.S.2d 72 (2014).

<sup>21</sup> In Santa Monica, it is illegal to rent a home for fewer than 30 days when the owner is not on-site. Tim Logan, "Santa Monica Comes Down Hard on Airbnb; Will Crackdown Spread?," *L.A. Times*, May 13, 2015, <http://www.latimes.com/business/realestate/la-fi-santa-monica-council-oks-tough-rental-regs-20150512-story.html>.

<sup>22</sup> Marina Riker, "State, City Looking to Crack Down on Illegal Vacation Rentals," *Honolulu Civil Beat*, March 10,

2015, <http://www.civilbeat.com/2015/03/state-city-looking-to-crack-down-on-illegal-vacation-rentals>.

<sup>23</sup> Xochitl Peña, "Lawsuit Challenges Rancho Mirage Vacation Rental Law," *Desert Sun*, September 26, 2014, <http://www.desertsun.com/story/news/local/2014/09/26/rent-rancho-mirage/16296603>.

<sup>24</sup> *Beacon Center of Tennessee, Anderson v. Metro Nashville*, <http://www.beacontn.org/andersons>; Bobby Allyn, "Airbnb Regs for Nashville Would Limit Guest Numbers, Tax Hosts Like Hotels," Nashville Public Radio WPLN News Archive (blog), November 13, 2014, <http://nashvillepublicmedia.org/blog/2014/11/13/nashville-decides-start-regulating-airbnb>.

<sup>25</sup> Sedona, Ariz., Code §§ 8-4-1 to 8-4-6.

<sup>26</sup> See, e.g., *Cope v. City of Cannon Beach*, 855 P.2d 1083, 1086 (Or. 1993).

<sup>27</sup> For example, the city of Santa Monica estimates it will spend \$410,000 in the first year of enforcing its short-term rentals ban. Kristen Lepore, "How Santa Monica Will Enforce Its Airbnb Ban," 89.3 KPCC Southern California Public Radio, <http://www.scprr.org/news/2015/05/18/51728/how-santa-monica-will-enforce-its-airbnb-ban>.

<sup>28</sup> State of Oregon, "Summaries of Measure 37 Claims," December 5, 2007, [http://www.oregon.gov/LCD/MEASURE49/pages/summaries\\_of\\_m37\\_claims.aspx](http://www.oregon.gov/LCD/MEASURE49/pages/summaries_of_m37_claims.aspx).

<sup>29</sup> See, e.g., J. Peter Byrne, "Ten Arguments for the Abolition of the Regulatory Takings Doctrine," *Ecology Law Quarterly* 22, no. 1 (1995): 89-142; F. Patrick Hubbard, "Palazzolo, Lucas, and Penn Central: The Need for Pragmatism, Symbolism, and *Ad Hoc* Balancing," *Nebraska Law Review* 80, no. 3 (2001): 465, 473-74.

<sup>30</sup> *Pennsylvania Coal v. Mahon*, 260 U.S. 393, 413 (1922).

<sup>31</sup> *Tahoe-Sierra Preserv. Council, Inc. v. Tahoe Reg'l Planning Agency*, 535 U.S. 302, 324 (2002).

<sup>32</sup> See *Fred F. French Investing Co., Inc. v. City of New York*, 39 N.Y. 2d 587, 596-97 (1976).

<sup>33</sup> *Armstrong v. United States*, 364 U.S. 40, 49 (1960); See also *VanHorne's Lessee v. Dorrance*, 2 U.S. 304, 310 (C.C.D. Pa. 1795) ("Every person ought to contribute his proportion for public purposes and public exigencies; but no one can be called upon to surrender or sacrifice his whole property . . . for the good of the community, without receiving a recompence . . . This would be laying a burden upon an individual, which ought to be sustained by the society at large.").

<sup>34</sup> Richard A. Epstein, *Takings: Private Property and the Power of Eminent Domain* (Cambridge, MA: Harvard University Press, 1984), 195-215.

<sup>35</sup> *P.I.E., LLC v. DeSoto Cty.*, 133 So. 3d 577, 578 (Fla. Dist. Ct. App. 2014).

<sup>36</sup> *M & H Profit, Inc. v. City of Panama City*, 28 So. 3d 71, 76 (Fla. Dist. Ct. App. 2009).

<sup>37</sup> *City of Jacksonville v. Smith*, 159 So. 3d 888, 892-93

(Fla. Dist. Ct. App.), reh'g denied (March 18, 2015), rev. granted, 173 So. 3d 965 (Fla. 2015).

<sup>38</sup> J. David Breemer, "Temporary Insanity: The Long Tale of *Tahoe-Sierra Preservation Council* and Its Quiet Ending in the United States Supreme Court," *Fordham Law Review* 71 (2002), 17-18.

<sup>39</sup> *Goodman v. Tucson*, C-20081560, \*7 (Pima Cty. Sup. Ct. November 2, 2009).

<sup>40</sup> "Goldwater Institute Wins Victory on Behalf of Property Owners," <http://goldwaterinstitute.org/en/work/topics/constitutional-rights/property-rights/goldwater-institute-wins-victory-on-behalf-of-prop/>.

<sup>41</sup> Goldwater Institute, "Goldwater Institute Files \$20 Million in Prop 207

Claims against Maricopa County," <http://goldwaterinstitute.org/en/work/topics/constitutional-rights/property-rights/goldwater-institute-files-20-million-in-prop-207-c/>; "Goldwater Institute Wins Victory on Behalf of Property Owners," <http://goldwaterinstitute.org/en/work/topics/constitutional-rights/property-rights/goldwater-institute-wins-victory-on-behalf-of-prop/>.

<sup>42</sup> Michael Kimmelman, "Wright Masterwork Is Seen in a New Light: A Fight for Its Life," *New York Times*, October 2, 2012, <http://www.nytimes.com/2012/10/03/arts/design/frank-lloyd-wright-house-in-phoenix-faces-bulldozers.html>.

<sup>43</sup> Fernanda Santos & Michael Kimmelman, "Sale of Wright House Assures Its Preservation," *New York Times*, December 20, 2012, <http://www.nytimes.com/2012/12/21/us/wright-house-in-phoenix-is-sold-after-fight-for-preservation.html>.

<sup>44</sup> Laura Kettel Khan et al., "Recommended Community Strategies and Measurements to Prevent Obesity in the United States," *Morbidity and Mortality Weekly Report* 58 (RR07): 1-26 (July 24, 2009), <http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5807a1.htm>.

<sup>45</sup> Christina Kohn (Sandefur), "Pima County Has Super-sized Plan for Starving Private Property Rights," *Tucson Sentinel*, February 8, 2011, [http://www.tucson-sentinel.com/opinion/report/020811\\_pima\\_obese\\_op/pima-county-has-super-sized-plan-starving-private-property-rights](http://www.tucson-sentinel.com/opinion/report/020811_pima_obese_op/pima-county-has-super-sized-plan-starving-private-property-rights). Supporters argued that Proposition 207 exempts land regulations that protect public health and safety, but that exception is meant to address issues such as sanitation and traffic control, not broad, general ideas about what the government thinks people should eat.

<sup>46</sup> Defendants' Motion for Partial Summary Judgment, *Sedona Grand, LLC v. City of Sedona*, No. 1 CA-CV 10-0782, p. 4 (on file with the Goldwater Institute).

<sup>47</sup> *Sedona Grand*, 229 Ariz. 37, 42 (Ct. App. 2012).

<sup>48</sup> *Id.* at 43.

<sup>49</sup> *Id.* at 42-43.

<sup>50</sup> *Id.* at 43.

<sup>51</sup> *Id.*

<sup>52</sup> Sedona, Ariz., Code § 8-4-2 (2008).

<sup>53</sup> Defendants Statement of Facts, par. 5, exh. B, *Sedona Grand*, No. 1 CA-CV 10-0782, 4 (on file with the Goldwater Institute).

<sup>54</sup> *Sedona Grand*, No. V1300CV820080129, 5-6. (February 24, 2014).

<sup>55</sup> Town of Jerome, Ordinance No. 405 and attachments (2013), on file with authors.

<sup>56</sup> The Goldwater Institute, Jerome Vacation Rentals Case, <http://goldwaterinstitute.org/en/work/topics/constitutional-rights/property-rights/case/jerome-vacation-rentals/>.

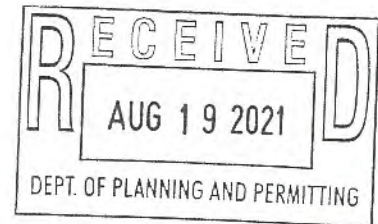
<sup>57</sup> To be precise, the Arizona Court of Appeals interpreted the demand letter as imposing a “notice of claim” requirement, rather than an “administrative exhaustion” requirement. For a good explanation of the difference, see *Moreno v. City of El Paso*, 71 S.W.3d 898, 902-03 (Tex. App. 2002). This technical distinction matters because a statute of limitations is postponed for an exhaustion requirement but not for a notice requirement. Because the court in Turner’s case interpreted the demand letter rule as a notice requirement, the precedent allows officials to ignore any demand letter that arrives during the last three months of the statute of limitations period. A property owner must wait 90 days after the letter is sent before suing—but any property owner who sends such a letter within the last 3 months of the limitations period will find that by the time he or she can sue, the statute of limitations will have expired. *Aspen 528, LLC v. City of Flagstaff*, No. 1 CA-CV 11-0512, 2012 WL 6601389 (Ariz. Ct. App. December 18, 2012), rev. denied. The proposed Model Act closes this loophole by providing that the written demand is an exhaustion requirement, and that the statute of limitations does not begin to run until a demand is rejected or 90 days have passed. The Act also closes another similar loophole by declaring that a demand letter supersedes any other notice of claim requirement, thus ensuring that owners need not send multiple notice requirements, as Arizona courts initially required. See *Turner v. City of Flagstaff*, 226 Ariz. 341, 343 (Ct. App. 2011).

<sup>58</sup> See *Nollan v. California Coastal Comm’n*, 483 U.S. 825 (1987); *Dolan v. City of Tigard*, 512 U.S. 374 (1994); *Koontz v. St. Johns River Water Management Dist.*, 133 S. Ct. 2586 (2013).

<sup>59</sup> *Koontz*, 133 S. Ct. at 2595. See also *Horne v. Dep’t of Agric.*, 135 S. Ct. 2419, 2430-31 (2015).

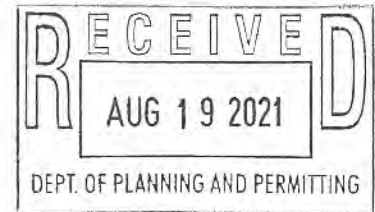
<sup>60</sup> Sandefur & Sandefur, *Cornerstone of Liberty*, 110.

**From:** Carole Jacobs [mailto:info@redbamboohawaii.com]  
**Sent:** Thursday, August 19, 2021 12:05 PM  
**To:** Takara, Gloria C  
**Subject:** 30 day rentals



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To the planning committee, I want to plead with you not to change the 30 day rental to 189 days. There are not even enough hotels now for people to stay in at reasonable prices. This doesn't make sense in today's world where Air BNB and VRBO are recognized as a choice independent travelers prefer to use, especially during a Covid pandemic year. I have lived in Hawaii most of my life and I feel there have been so many rash decisions made that end of being reversed. As a retail owner in Kailua, we almost had to close our doors after you shut down the vacation rentals in Kailua. We do not have any hotels, and like it or not people want to vacation in our little town. After making it through Covid, and the 9 months of the Pali being closed, this change will just put the nail in the coffin and many retailers will be forced to finally give up and shut down. Even having people being able to rent once a month helps us out! Thank you.  
Carole Jacobs  
retail owner in Kailua



-----Original Message-----

From: Sean Brady [mailto:seanbrady808@yahoo.com]

Sent: Thursday, August 19, 2021 12:24 PM

To: Takara, Gloria C

Subject: Proposed Amendments to Chapter 21 LUO & ROH 1990 as Amended relating to TAs

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

Aloha Chair Brian Lee, and Members of the Planning Commission, I am writing to you today as a very concerned small business owner who stands to be impacted by DPP's latest proposed amendments to Chapter 21 relating to Transient Accommodations. I recently purchased a condo unit in Waikiki's special district for permitted short term legal rentals. This specific unit was purchased solely to be in compliance with the 2019 "Kokua Coalition Agreement" which I understood would be honored by the City & County of Honolulu.

The building where I purchased my condo is primary used for short term rentals directly by the owners, we have no hotel affiliation. The other owners in our building are just like me, local folks who live here and purchased their units as small business investments. Every single one of us pays GE, TAT and resort zone property taxes diligently, and works very hard to meet all of the requirements that the City and State have implemented. Each of us hire local housekeeping and tradesmen to clean and provide maintenance for our units. The point being, this proposal threatens to take away not only our small business' but also threatens the livelihoods of those who work to support our business'.

I was born and raised on the Windward side of Oahu and have been trying for many years to afford to purchase a home of my town in Kailua. With the skyrocketing costs of real estate on the windward side, I decided to take my life savings and use it to purchase an investment condo rather than a primary home for my family as a means to earn some additional return on our investment. I thought this investment would ultimately allow our family to earn enough income to purchase our primary home as well as allow us to provide wonderful experiences to our guests as local hosts. I know first hand how sensitive residential communities can be towards rentals in our islands which is why the resort zone in Waikiki was our targeted area rather than seeking out a legal Turtle Bay or Koolina condo.

What I didn't take into consideration when making our purchase was the greed of the hotel lobbyists who are responsible for drafting this proposal. This proposal is a blatant violation of our property rights, as we bought our property due to the resort zoning and its permitted use. Please take into consideration who this proposal is going to affect; thousands of small business owners who were trying to do the right thing. We purchased our units to be in compliance with the resort zone designation and we are now being unfairly targeted due to multi-billion dollar corporate greed.

My story is the same as the majority of short term rental owners in the Waikiki Resort Zone, we are local people who are simply asking not to have our livelihoods stripped away from us. Thank you for your consideration.

Mahalo,

Sean Brady

-----Original Message-----

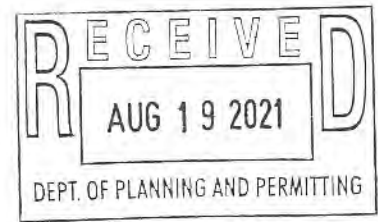
From: Ronald Steiner [mailto:steiner289@gmail.com]

Sent: Thursday, August 19, 2021 12:28 PM

To: Takara, Gloria C

Cc: Waters, Tommy; rblangiardi@honolulu.gov

Subject: Proposed Amendments to Chapter 21



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G. Takara,

I have read with disbelief the proposed amendments by D Uchida and the DPP regarding Short Term Rentals (STR's). Where does one start with this attempt to totally shut down STR on the Island of Oahu? If I am not mistaken, 180 days qualifies as long term which is now legal throughout the state, some brilliant thought put into this new proposal is readily apparent! It appears that any previous hard work done on both sides of the issue to come up with a workable solution are to be banished and forgotten. All the meetings, testimonies, Public and Council input are for not. Let's blame all the woes of the economy, high cost of housing, problems in neighborhoods and the rest of the ills we have and will continue to have with or without COVID on homeowners who wish to operate an STR within prudent and logical standards. It's simple, "Big Money" and corporate hotels and unions have always controlled the process with lobbyist, professional marketing and ability to spread any message they wish. And who funds HTA? Why the tax payer of course, Hawaii Tourism Authority, to put it mildly is a joke and beholden to the money and not the overall interest of working with the system and what is best for the Island!

We had gone over this time and time again and were finally coming to a coherent solution in 2019, but DPP could not get it together to finalize the process to licensing STR's. A limited number of STR's was set to be licensed in each area and TVU's were eliminated altogether, (which in my opinion was the major cause of neighborhood issues) and other rules and regulations discussed. So, what happened? The hotels went into a panic and spread disinformation throughout the island. HTA data shows, low and behold, STR's are more popular with higher occupancy than the hotels in these times of COVID.

As we have lobbied for in the past a major portion of users benefitting from STR's are family members and friends on the mainland coming home! We have argued these folks can't afford, don't want to and will not stay in hotels geared to vacationers! They need a place to sleep and be close to families and don't need any of the hassle associated with commuting from Waikiki. They don't want or need cleaning on a daily basis, pay for parking or resort fees. You are basically throwing people who grew up here and want to visit families still in Honolulu under the bus.....The idea, in this time of COVID, do you really think visitors want to stay in packed hotels, restaurants and elevators? You all need a reality check.

Where is the compassion or understanding that many, many returning visitors, families, the elderly or those who detest what "resort areas" have to offer? Well, screw them apparently is the solution. The "power's" are only interested in stuffing as many people in hotel rooms as possible for the highest daily return on the dollar. The idea of STR's as the scapegoat for our ill is just "beyond the pale". Maybe you

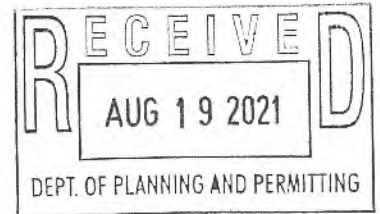
should add the "rail" as another problem STR's have caused or "Monster Homes". It certainly can't be the administration or DPP!

It is time once again to look at the big picture and come up with a workable solution and not throw this important facet of our economy away. Millions in TAT and Excise Tax will be lost, Another wacko proposal is to tack additional tax on tourists for the rail, when you already have a source from STR's. What in the world is going on in the halls of the administration.

Sincerely,

Ronald Steiner  
Concerned Citizen

**From:** AMY CHRISTLE [mailto:christleball@hotmail.com]  
**Sent:** Thursday, August 19, 2021 12:34 PM  
**To:** Takara, Gloria C  
**Subject:** Proposed vacation bill



CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

Aloha,

My name is Amy Christle and I am a homeowner in Mokuleia. I bought my home 4 years ago and it was in shambles. Nobody had lived in for years, the exterior wall had crumbled, full of bugs and rodents. The yard was so overgrown you couldn't see the house and it was a eye sore for the neighborhood.

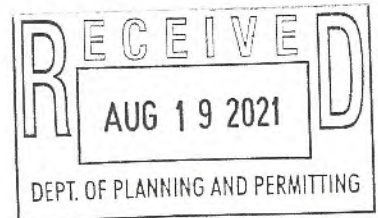
It took me more than 2 years to fix the house up and cost more money than I ever expected in fact, it just about bankrupted me and Cost me my 11 year marriage. It was a very hard time for me.

With all that being said, the house is beautiful with a beautiful wall and lush landscaping! I completely brought this property back to life and have been praised by everybody in the neighborhood. I hope to live there full time sooner but the pandemic hit and I'm stuck here in California for now. I do spend as much time as possible in mokuokeia but I rent in out between visits for maintenance, security etc.

I would be forced to sell it if this bill passed and though I understand people enjoyed less tourists during the shut downs (including myself) it would kill the economy for so many. Personally, I don't know many people that would able to take a 180 day vacation either. I have always followed the laws to the T, pay my taxes and have had 0 complaints from neighbors. I want to keep my home that I worked so very hard on restoring so please reconsider.

Sincerely,  
Amy Christle

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**From:** Keala Carter [mailto:kealacarter@gmail.com]  
**Sent:** Thursday, August 19, 2021 1:43 PM  
**To:** Takara, Gloria C  
**Subject:** Proposed Amendments to Chapter 21 (TVUs)

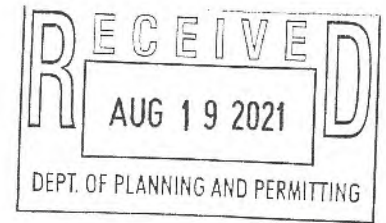
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Aloha e Gloria,

Treating vacation rentals the same across all of Oahu island creates even greater disparities between rich communities like Kailua and, where I own a condo, in Waianae. Planning needs to address the different needs of a community and as I'm sure you know keenly there is a huge variety of situations across the island.

Regardless, lengthening the 30 day minimum for TVUs to 180 days is bad news and only further enshrines Oahu as a destination for rich tourists. The folks that rent my place in Waianae contribute to the community out West and do not negatively impact their surroundings.

Mahalo for your public service,  
Keala



**From:** Lexi Meinen [mailto:LexiMeinen@hotmail.com]  
**Sent:** Thursday, August 19, 2021 1:54 PM  
**To:** Takara, Gloria C  
**Subject:** Per the STR Ordinance Draft

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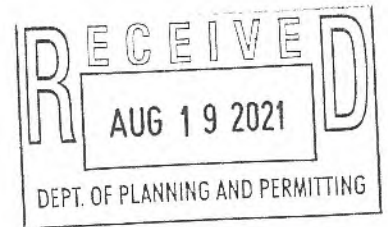
Good afternoon,

I am writing to you as a result of the draft memo released by the Honolulu DPP in regards to Short Term Rentals (STRs).

I own two legal TVUs within the Waikiki resort zone, one acquired in 2017 and the other this year. When searching for these properties, I specifically sought legal TVUs in the Waikiki resort zone. As part of my due diligence, I also double checked the underlying land use for resort district in Waikiki. The TVU use is the vital component of not only my livelihood, but of my use right of the property. The memo outlines an amendment that will remove that right from me without due process and/or fair and proper compensation, which is a direct violation of my property rights under the US Constitution.

Sincerely,

Lexi Meinen



**From:** James Campbell [mailto:jimmysoup@yahoo.com]  
**Sent:** Thursday, August 19, 2021 2:05 PM  
**To:** Takara, Gloria C  
**Subject:** \*\* SPAM \*\* Per the STR ordinance memo

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To the Planning Commission,

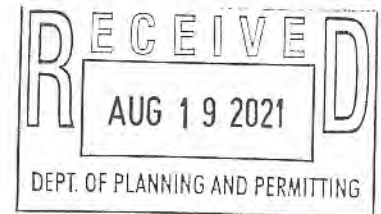
I am writing to you as a result of the draft memo released by the Honolulu DPP in regards to Short Term Rentals (STRs).

I own a legal TVU within the Waikiki resort zone. When searching for my property, I specifically sought legal TVUs in the Waikiki resort zone. As part of my due diligence, I also double checked the underlying land use for resort district in Waikiki. The TVU use is the vital component of not only my livelihood, but of my use right of the property. The memo outlines an amendment that will remove that right from me without due process and/or fair and proper compensation, which is a direct violation of my property rights under the US Constitution.

Warm regards,  
James Campbell

Sent from my iPhone

**From:** john.an@ohanastay.com [mailto:john.an@ohanastay.com]  
**Sent:** Thursday, August 19, 2021 2:34 PM  
**To:** Takara, Gloria C  
**Subject:** Objection to DPP's draft proposal for STR regulation



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Members of the Planning Commission,  
I am writing to express my vehement opposition to the draft STR proposal from the DPP. DPP is simply inviting years of ongoing legal challenges to the city and county. Aren't there better uses of limited resources?

First and foremost, DPP was charged with developing a means of enforcing Bill 89, which went through a lengthy legislative process including multiple public hearing over multiple years. DPP's response ignores their charge, and rather makes a proposal they do not have the authority to dictate.

The DPP's proposal to eliminate as-of-right TVU's in the Waikiki Resort Zone, while allowing properties outside of the resort zone to maintain their NUC's simply has no legal or logical consistency. How is it that the DPP recognizes that NUC's are grandfathered in so they propose allowing them, but seem to believe that an as-of-right use can just be taken away without process and equitable compensation? This is a governmental taking which, if enacted, will require just compensation.

Even more disconcerting is the proposed change for properties outside of the resort zone to define minimum length of stay from 30 days to 180 days. The 30 day minimum length of stay is also an as-of-right use of residential property, which DPP proposes to eliminate. Moreover, the 30-day stipulation was an agreement that the city and county made in the process of coming to agreement on Bill 89. How is it that DPP can ignore this agreement? What incentive would there be to negotiate future agreements with the city if prior agreements can be so easily ignored?

Will DPP take responsibility for the predictable implosion of tax revenues? Does DPP realize their plan will destabilize the tax base of the entire State? Did DPP consider the property tax implications, sale tax implications, the TAT revenue implications?

On a related matter, has DPP conducted any studies on infrastructure and traffic impacts in trying to shift where the resort zones are located? This is a rhetorical question, and I am certain we all know the answer to these questions is a solid NO.

Bill 89 was hastily adopted despite the fact that many questions remained unanswered. For instance, the question of how Bill 89 was going to be enforced was not addressed, and DPP was charged with figuring that out AFTER Bill 89 was passed. The proposed draft by the DPP clearly shows little consideration for the implications of the changes,

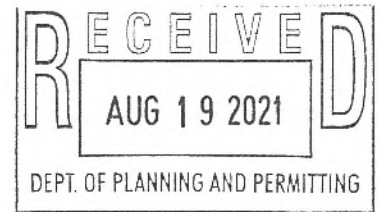
and frankly, is sophomoric. I believe that giving credence to this ill-conceived proposal by having it even considered for discussion will prove the disingenuous intent that DPP and the City and County of Honolulu is operating under.

Zoning changes require in depth economic and infrastructure impact studies. The fact that the DPP feels they can glibly make these recommendations without any process or impact study shows how little thought has gone into executing their charge of finding a means of implementing and enforcing Bill 89. If DPP feels Bill 89 is not enforceable, that should have been raised and addressed BEFORE Bill 89 was approved.

Tax-payer dollars have already been spent in getting Bill 89 passed. DPP's draft ignores all the effort and costs that went into the Bill. Now, DPP proposes a bill that will inevitably result in ongoing litigation against the City and County of Honolulu for taking away as-of-right uses without just and fair compensation. I implore you not to give credence to DPP's draft proposal.

Thank you,  
John An

**From:** Mike [mailto:96seashore@gmail.com]  
**Sent:** Thursday, August 19, 2021 2:47 PM  
**To:** Takara, Gloria C  
**Subject:** Draft memo



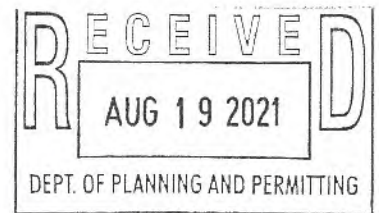
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Aloha,

As a vacation rental owner, who operates legally (and tax paying) in the Hotel/Resort District, I support the measure being discussed.

Mahalo

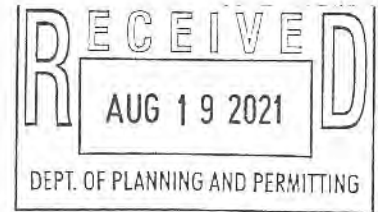
**From:** Richard Emery [mailto:randrhawaii@gmail.com]  
**Sent:** Thursday, August 19, 2021 2:59 PM  
**To:** Takara, Gloria C  
**Subject:** STR Proposed Rules



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I have read the proposed rules and object to them. Government needs to recognize that there is a change in trends by consumers. I am a senior citizen that owns a condominium unit in Waikiki that I rent for not less than 30-days. Who are my clients? I rent to travelling nurses (Covid) and health care professionals, specialized mechanics for the military (nuclear mechanics), educators on assignment. It is rare that a tourist would ask to rent for 30-days, but it's OK if they do because its rare. These renters are looking for an affordable apartment that they can cook in and live a more normal life that a hotel does not provide. I pay my taxes and support our economy by providing a valuable service and paying local vendors. It's ridiculous to suggest rentals not less than 180-days be incorporated.

Sent from [Mail](#) for Windows



-----Original Message-----

From: Beach Front Villas [mailto:beachfrontvillashawaii@gmail.com]

Sent: Thursday, August 19, 2021 3:15 PM

To: Takara, Gloria C

Subject: STR draft changes

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I have just read the draft regarding the short term rental proposal. It doesn't seem even legal for the DPP to completely change the bill that was approved after long testimony by many people at city council. Changing from 30 days to 180 days is a drastic change that should not be undertaken Without public input and due process.

Throughout the letter assumptions are asserted, for instance that the neighborhoods are and were damaged by having 30 day Rentals. This is definitely not true in our neighborhood. Our neighbors were happy to have places where they're visiting family could stay without having to be in Waikiki in the crowds at the hotels. This alleged damage was not brought up at city Council hearings or the DPP session earlier this year, so virtually no public comment has been permitted or even requested on this topic yet it is being used as a basis for this unwarranted change.

Our neighbors have a good relations. I will gather testimony from them but with only one days notice it is not realistic that many will have time to respond.

Government officials are here to serve the public. Bypassing the judicial process and trying to rush through such a drastic change it's really shocking. It's as if the hotel industry is in charge of this as well as having written bill 89. All while using Covid as an excuse.

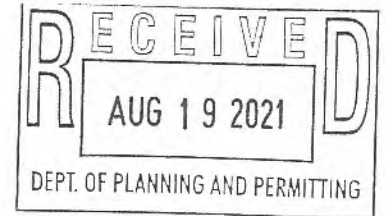
All of the rentals in our neighborhood were completely booked during Covid with people staying a minimum of 30 days. Those families kept to themselves, they were not gathered in hotel lobbies or elevators or on public transportation. They were in their own units with their own cars. The "benefits" of covid mentioned in the letter were not because people were not allowed to use 30 day rentals, they were because people didn't want to be in a hotel with thousands of other people. Our neighborhood is made up of homes that cost 1.5 million and up. These are not homes that are going to be rented to long term middle and low income folks. These homes will either sit empty (for the wealthy multi homeowners) or be sold away from the Hawaii residents who own them, live in the other unit, put their children through college, keep their mother in a nursing home, or just make it so they can only work one job instead of three. That's who you're hurting. The wealthy people who will snatch up these homes when I go on the market are not the people who need a further advantage.

Please follow the law that was completed with a lot of work from the public and city council. It is not appropriate, fair, representative and likely illegal for the DPP to ignore the actual law and not start the permit application process that City Council ordered, the public was heard on, and was signed by the governor. That is finally allowing permits to be applied for for the first time in 30 years, and continuing allowing 30 days minimum stays.

This is what's good for Hawaii and the people who actually live here.

Thank you.

**From:** Rosaline Wang [mailto:rosaline.hawaiifirstrealty@gmail.com]  
**Sent:** Thursday, August 19, 2021 3:52 PM  
**To:** Takara, Gloria C  
**Subject:** STR Proposed Rules - Objection!!

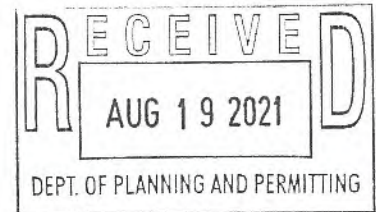


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I have read the proposed rules and object to them. Government needs to recognize that there is a change in trends by consumers from mainland. My husband and I are senior citizens that we own a condominium in Waikiki that we rented out for minimum 30-days stays. Who are our clients? There were travelling nurses (Covid) and health care professionals on Hawaii assignments, specialized mechanics for Pearl Harbor naval fleet (nuclear mechanics), educators on assignment to University of Hawaii, DEA Agent on assignment, school teachers from Massachusetts seeking diversity experience for relocation to Hawaii. These renters are looking for an affordable apartment that they can cook in and live a more normal life as if they worked from home that a hotel room does not provide. I pay my taxes and support our economy by providing a valuable service and paying local vendors. It's totally insensitive and ridiculous to suggest rentals not less than 180-days be incorporated.

Sent from [Mail](#) for Windows

**From:** Cathy B [mailto:kasia77777@hotmail.com]  
**Sent:** Thursday, August 19, 2021 3:58 PM  
**To:** Takara, Gloria C  
**Subject:** Proposed changes



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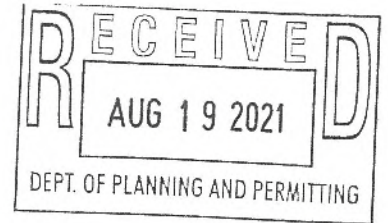
Your document proposes a change in the definition of short term rental from 30 days to 6 months. This is unreasonable for home owners who do not rent to people on vacation.

It limits access to residents of Hawaii who are in transition and need a 3 month rental. It limits access to new residents moving to Hawaii who require a 3 month rental while waiting to purchase a home. It also limits access to a house environment for temporary or corporate workers in Hawaii who are doing business for less than 6 months.

If your goal is to limit vacation rentals, please consider the definition of vacation. Most vacations are less than one month.

Thank you for your consideration.  
K. Bertram

Sent from my Galaxy



**From:** Steven Sanders [mailto:stevensanders808@gmail.com]

**Sent:** Thursday, August 19, 2021 3:58 PM

**To:** Takara, Gloria C

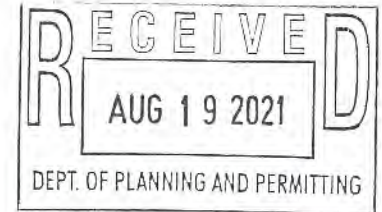
**Subject:** How will this effect nonconforming use buildings such as the Hawaiian Monarch?

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Steven Sanders

**From:** Karen Luke [mailto:nahele@yahoo.com]  
**Sent:** Thursday, August 19, 2021 4:17 PM  
**To:** Takara, Gloria C; Tulba, Augie  
**Subject:** STR Draft Ordinance



CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

With the passing of Bill 89, and enactment of Ordinance 19-18 in 2019, DPP enforced making advertising illegal for short-term rentals not in compliance with zoning regulations. That same ordinance permitted a limited number of new Bed and Breakfast Homes (B&B) in non-resort areas under a new registration process to start Oct 1, 2020, but due to the pandemic, City Council adopted Bill 50 pushing the date to no earlier than Apr 30, 2021.

Going rogue, DPP invited the public to a meeting on Apr 6, 2021, to cover how to implement B&B permits, but they delivered no explanation and answered no questions instead opening the meeting to the public for comments. DPP apparently packed the audience to hear complaints about the process and then issued a statement on their website temporarily suspending registration for new permits.

DPP continues to follow only the enforcement part of Ordinance 19-18 and has not followed the rule of law.

Now DPP further oversteps its bounds and wants to confine tourism to Resort Zones to the benefit of international chain hotels and multi-national shops that do little to help the local economy. Tourists' biggest expense is lodging and food and beverages. Hotels deemed essential survived our lockdowns, but short-term rentals and restaurants were shut down in much of 2020 and many disappeared.

DPP is known to have responded to 261 complaints over a 2-day period from 1 person, so 375 complaints on STRs over a 6-month period seems to be a relatively small problem for DPP to handle along with permitting a few B&Bs. The requirements for a B&B are so narrow, I doubt DPP will get more than a few hundred applications as 43% of our homes are renter occupied and the few hundred advocating for B&Bs are so small as to be politically ineffective.

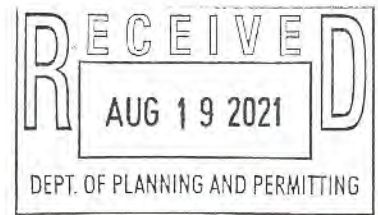
What recourse do I have when a county department head defies a bill painstakingly crafted by city council over years of work to pass a bill into ordinance?

Will City Council enable and encourage DPP to act independently without regard to bills passed and ordinances in effect?

Mahalo for your consideration,

Karen Luke  
Ewa Beach, HI

**From:** Sienna Akana [mailto:sakanawest808@gmail.com]  
**Sent:** Thursday, August 19, 2021 5:06 PM  
**To:** Takara, Gloria C  
**Subject:** STR Ordinance Draft



CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

Hi,

This email is in reference to your plans to further restrict Oahu's home owners from renting their homes as short term rentals through Proposed Amendments to Chapter 21. I have read the draft and it clearly attempts to restrict residents from earning income to support their families. The very income that provides tax dollars to the city and the state.

The entire state is a resort to the rest of the world. Trying to remain in the 1980's is short sighted. This restriction will not deter visitors from visiting residential neighborhoods by the busload or by car. They will just visit the neighborhood, visit a local bar and drive back to Waikiki drunk instead of spending the night in a home nearby.

What you are doing is saying we do not work for tax paying local citizens, we work for the hotels. Last I checked, Hyatt and Hilton were not kamaaina.

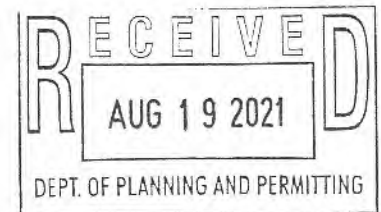
The rentals are un-permitted because you have been unwilling to take the time to create the department for processing said permits-pure laziness on the part of the DPP. There are already B&B's and there should be B&B's wherever there is a beach. Looks like you completely support giving all our tourism dollars to mainland corporations instead of residents (who pay your salary).

STR's do not increase prices unless they are un-hosted investors-which are mostly gone now, by the way. Do better research. If we are not careful, Oahu will become a playground for the rich-we are already heading in that direction. There will be rich homeowners and low-income workers working for them.

STR's are not ruining the fabric of our neighborhoods-that is rhetoric. If you can tell me the names, ages and occupations of your neighbors 3 houses in each direction of your house, that may be accurate but, I am sure you do not know all your neighbors. These are just people sleeping in a bed.

I am saddened by how you are attempting to infringe on the rights of homeowners and we will fight it.

Mahalo,  
Sienna



-----Original Message-----

From: Rose Macias [mailto:rosemacias3@gmail.com]

Sent: Thursday, August 19, 2021 5:42 PM

To: Takara, Gloria C

Subject: Short term rentals.

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Aloha,

I have been on the sidelines in regards to this measure and proposal.

What I see is that yes we are over run with Tourists. I blame that on the Airlines selling cheap tickets to here.

And the lack of limitations the Government is not enacting and enforcing.. Covid numbers are up and I can see why. The masses of tourists coming in.

These numbers have nothing to do with Short term rentals.

I also believe that there is some heavy lobbying within the Hotel industry. I get it, but do you? Is it about the money or helping your residents recoup some losses ?

I'm not sure if you have really seen how these propositions have impacted your local residents whom depend on the extra income to pay their exorbitant mortgages that they have just to own a home. Every persons dream. Hawaii home sales are out the roof and very slim. Not many homes are available to purchase.

Since there are restrictions to short term rentals, there are now HUGE TOUR BUSES all over the North Shore imparticular. Creating mind boggling traffic jams, Creating stress for the locals that can't get to their jobs or schools on time!! Harming Turtles, sea life, coral reefs, beaches with the amount of tourists being bused over from THE HOTELS !! in Honolulu. Whats the point ??? Are you really looking at all of avenues for your VOTERS???

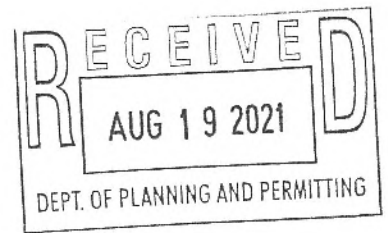
Why not start charing parking fees , access point fees to the Tour Bus Companies? To the tourists if they want to disturb the turtles? And don't even get me started on the infrastructure with TRASH, PLASTIC, ETC. Roads need to be fixed, traffic needs to be diverted etc.

It's not just about short term rentals, This is about what you are going to do for your People. Most especially after a year and a half being shut down from a Pandemic.

When are you going to start looking at ways to help them?

Thank you for reading.

Rose Williamson



-----Original Message-----

From: Barbara Sanderson [mailto:waikikicondo@hotmail.com]

Sent: Thursday, August 19, 2021 6:33 PM

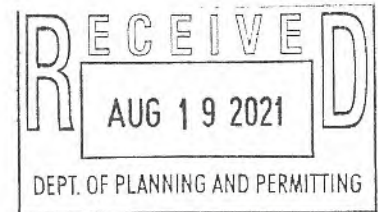
To: Takara, Gloria C

Subject: When is this going to take place?

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I am wondering who owns property on the Gold Coast.

This is unbelievable. How can you dictate this?



**From:** Mike Heh [mailto:mikeheh100@gmail.com]  
**Sent:** Thursday, August 19, 2021 6:39 PM  
**To:** Takara, Gloria C  
**Subject:** STR Ordinance Draft

CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

Dear Mr Takara,

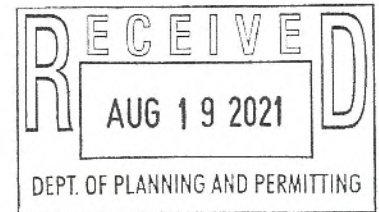
Let's call this for what it is, the Honolulu City Council selling itself to the hotel industry. Clearly this is a plan for "legal short-term rentals" to be crushed out of existence. A \$5,000 registration fee to rent your legal STR suddenly and \$2,500 a year renewal fee?!

And a proposed ban on legal TVU's like the one we have been operating in the resort zoned area in Wakiki for 2 decades paying resort property taxes as well as TAT suddenly not allowed to operate the way this legislation reads. Is that correct, Mr. Takara?

Please don't engage in any discussion on this terribly written totally flawed proposal that looks written by a hotel lobbyist and given to the city council to sign off. You are our neighbors you are our friends, the hotel industry is not. Please ditch this junk legislation and don't sell yourselves out to the hotel industry!

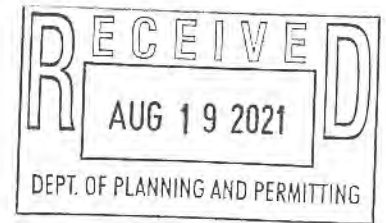
Michael Heh  
808-382-4515  
My TAT Tax ID: TA-155-111-0144-01

**From:** Patty Ochi [mailto:ochifamily@gmail.com]  
**Sent:** Thursday, August 19, 2021 7:08 PM  
**To:** Takara, Gloria C  
**Subject:** Short Term Rentals



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Strongly opposed to increasing 30 day minimum to 180 day minimum. Significant amount of tourist \$\$ will go to other islands where they can stay in a home as a family. Hotels do not fulfill their needs.



-----Original Message-----

From: Ann Shaver [mailto:alshaver@me.com]  
Sent: Thursday, August 19, 2021 8:33 PM  
To: Takara, Gloria C  
Subject: DPP Proposal Concerning STR Regulations, Etc.

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

TO: Brian Lee and the Planning Committee  
FROM: Ann Sack Shaver  
RE: DPP Proposal Concerning STR Regulations, Etc.

The proposal is seriously flawed because it stems from faulty assumptions. Vacation rentals are not ruining the quality of life here in Hawaii; tourism is the backbone of our economy. There has been talk for years of diversifying our economic base: medical tourism, technology-related jobs, now working remotely. And where are these new employees going to live? Often in TVUs in neighborhoods.

Are short-term visitors rowdy intruders, simply ruining our neighborhoods? Not likely; instead, they are more likely than hotel guests to interact with people who live in and love Hawaii. Their neighbors are probably more likely to tell them about Hawaiian history, culture and great restaurants than hotel employees, who often have to work multiple jobs to make ends meet and thus are not likely to have the time to know about Hawaiian history, culture and great restaurants.

Maintaining short-term lodging requires a cadre of services. The owners of the B & Bs and TVUs are likely to be local residents, shopping and paying taxes to the City & County rather than to off-shore corporations. The tourist residences must be maintained, and local cleaning crews, lawn-service individuals and companies, plumbers and other maintenance workers are all needed. This symbiosis drives the local economies throughout the island. People come to have different types of recreational experiences and they patronize surf shops, bicycle shops, restaurants, local artisans, community theaters (we hope again someday) and even churches.

The draft proposal does not recognize the value of short-term vacationers as part of the mix of incentives luring tourists. Please rethink this draft, relying on people who have NCUPs and others who wish to have them and be able to come into the sunshine as well as representatives of HTA, economists, union authorities and, yes, even representatives of the various neighborhood boards.

The subject has been festering since 1989 when NCUPs were last available. Let's do it right this time around!

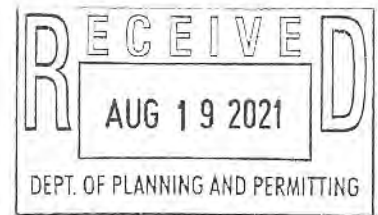
-----Original Message-----

From: Lois Crozer [mailto:lbc628@gmail.com]

Sent: Thursday, August 19, 2021 9:00 PM

To: Takara, Gloria C

Subject: Proposed Amendments to Chapter 21 LUO ...relating to Transient Accommodations



CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

For starters, I take issue with I. BACKGROUND second paragraph "Traffic, crowding, tourists invading residential neighborhoods, and noise at all hours of the day that were typical issues created in part by STR's, disappeared during the pandemic lock down."

Who has documented this "noise at all hours of the day that were typical issues created in part by STR's"? This is categorically untrue. My take on this is that the hotels have lobbied to shut the B&B's and TVU's down because they are the only ones who have the ear of the people in charge because the common citizens were not allowed to meet with any officials during this pandemic time. These hotel interests have lied about what is happening, and there is nobody out there to challenge them. THIS IS UNFAIR and I'm extremely upset.

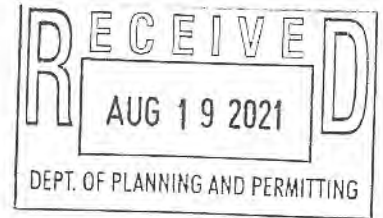
Then you go on to say "STR's are disruptive to the character and fabric of our residential neighborhoods. They are inconsistent with the land uses that are intended for our residential zoned areas, they decrease the supply of long-term housing, making living on Oahu less affordable for its resident population. Any economic benefits of opening up our residential areas to tourism are far outweighed by the negative impacts on our neighborhoods and local residents." I have yet to see a study with this DOCUMENTED! It's all hearsay. Meanwhile the houses in my neighborhood are being sold to the highest bidder in the tens of millions of dollars, sight unseen! for CASH. These are to wealthy out-of-state owners who will be using them as a second home. And the C&C continues to insist it's the B&B's which are raising the prices. Yes, I will agree when people buy properties for the purpose of renting them out for vacationers prices go up. So too when people buy lots and knock the old house down and build several units (never to code!) for rent. Do you know that many of these rentals are being rented to military or people also moving here from the mainland? COME ON, do your homework. This all is so obvious to everyone except you continue to believe the hotel industry who is sending most of the profit offshore and paying their workers the bare minimum wage.

For more than ten years I've been trying to help come up with a solution so that local people can benefit from the tourists without impacting their neighbors, by providing accommodation to neighbors wanting their family to visit, returning locals who want to visit, people looking to rent while they renovate or build a house, families coming for funerals, graduations... Do you really think they want to stay in Waikiki? PLEASE think! Next thing there will be a hotel in Kailua because it IS needed if you take away the B&B's, and the profit from this hotel will go to big business.

Also, I want you to investigate all the B&B's who already have licenses and see if they are to code. It's the least you can do since you are so insistent that they are beyond the law and shouldn't be touched or regulated.

As you can tell, I am beyond disgusted with this latest iteration of the vacation rental rules!

Lois Crozer  
resident of Kailua for 30 years



-----Original Message-----

From: Robert R. Ellison [mailto:3836543@gmail.com]

Sent: Thursday, August 19, 2021 10:21 PM

To: Takara, Gloria C

Subject: Comments on "ADMINISTRATION INITIATED LAND USE ORDINANCE AMENDMENTS RELATING TO SHORT-TERM RENTALS AND TRANSIENT ACCOMMODATIONS, POST COVID-19"

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Aloha DPP,

I own a licensed TVU in Kailua, and would like to offer my views on the proposed amendments:

1. The ""BACKGROUND" in the Staff Report is very misleading, particularly where it says the Covid lockdown was "what life was like before the proliferation of STR"s." That is grossly unfair hyperbole. The entire population of Oahu was pretty much stuck at home and there were virtually no tourists at all during this "life before the proliferation of STR"s."

There are less than 700 NCU's for STR's on Oahu, and more than 12 of the 16 pages listing them are in Waikiki, and almost another full page for Kuilima Estates in the Turtle Bay resort. Our TVU is in the neighborhood between Buzz's Steakhouse and the pillar marking the entrance to Lanikai. There is only one other legal STR, which is a B&B. The thousands of tourists crowding into Kailua every day, are primarily day trippers from Waikiki. Is is guidebooks and websites like TripAdvisor and Instagram that encourage them to visit "secret" spots and get their Instagram selfie on the Pillbox hike.

In the almost 40 years that I have owned my TVU, I think there might have been two nights when guests were loud. For half of that time period I lived next door to the TVU, so I would know if there was a pattern of misbehaving guests. There have been far more noise issues with long term neighbors' domestic arguments, neighborhood garage bands, and most recently a high school graduation party with dozens of inebriated teenagers with no adults in attendance. That particular party went on until 2 am, with the police coming three times and no citations issued. Additionally, TVU's are well maintained, there are no junked cars in their yards, and they never become crack houses.

"Problem" STR are generally not small ones, but large party houses with multiple bedrooms and typically swimming pools. There are existing laws governing noise limits. The police should enforce them with citations and fines, and the "problem" STR's would cease to be problems. I know of two illegal STU's within way less than 100 feet of my STU. I don't report them because they and their guests are not bothering anyone. If they were causing a lot of noise, or being "disruptive to the character and fabric of our residential neighborhood," I would indeed report them. The claim that STR's "increase the prices and rents of housing has been debunked by objective studies that have been done nationally.

So when DPP make these kinds of offensive blanket statements about how terrible STR's are, you should back up your assertions with facts and statistics, not innuendo, anecdotes, hearsay or generalities.

2. I have no idea what problem you are trying to address by redefining short term rentals as less than 180 days. That would create a lot of hardship for local residents who need to move out of their homes temporarily for renovations, or between selling a home and buying a new one. They will have to stay 2-3 months in Waikiki hotels? It will also be a hardship for military personnel who have expiring long term leases and less than 180 on Oahu before moving to their next duty station.

3. It would be grossly unfair to assess TVU's at the hotel and resort rate for real property tax purposes. The TVU's are nothing like hotels or resorts. They only have one revenue stream, rent, and already pay 14.75% in GET and TAT. If TVU's are assessed the same as hotels and resorts, they should be allowed to generate the same revenue streams as hotels and resorts - retail, food and beverage, beach toy rentals, etc. Converting one bedroom of my TVU to a mini-mart and putting a tiki bar in the yard would be very profitable. Will STR's be allowed to get liquor licenses?

4. If DPP is convinced that there are too many tourists, why are you planning on issuing more STR licenses? If you really want to halt the growth of tourism, the simple solution would be putting a moratorium on all new tourist accommodations - hotel rooms, time shares, STR's.

5. If you put a moratorium on the construction of new tourist accommodations, what would property developers do? Most likely they would build housing that the long term residents of Oahu need.

6. If you want to reduce the number of tourists, DPP should aggressively enforce existing laws. How difficult can that be, now that Airbnb and VRBO require license information with their Oahu listings? For illegal operators who are playing the "minimum 30 day rental" cat-and-mouse game, why don't your inspectors give citations to the ones that have more than one guest review within 30 day periods? Currently DPP's enforcement is half hearted at best. I personally know two illegal operators who were reported and had an inspector show up and ask if they were operating an STR. The owners denied that they were, the inspector left, and the illegal operators kept right on operating.

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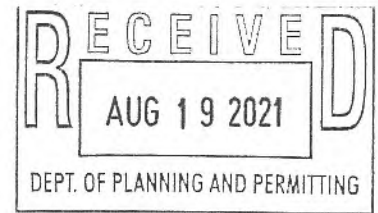
When the C&C of Honolulu issued NUC's for TVU's and B&B's in 1989, the original plan was to ban them completely. After a petition to keep existing ones was signed by numerous local residents who need them for visiting relatives, wedding guests, etc., the decision was made to grandfather about 2000 STR's island-wide. The requirements to qualify were that the property had to have been in use as an STR for at least two years, and that it be proven that taxes had been paid on the rental income. So honest, long term owners like me were issued NUC's. Since 1989 we have effectively been penalized by the DPP's lack of enforcement of existing laws. We have been at a competitive disadvantage of 9.25% TAT that the illegals don't pay, if they are even paying GET. There have been years when I wondered if it even made sense to renew the NUC, given that there were ten times the number of illegals as legal STR's. When it looks like maybe the DPP finally wants to get serious about shutting down the illegal STR's, why now add the additional penalty of hotel rate property tax to the dwindling number of legal ones? Especially if we are denied the opportunity to add the other normal hotel revenue streams?

Instead of changing the last round of new laws from two years ago, just enforce them and the problem of illegal STR's will go away, reducing the number of tourists. Give the Police support in enforcing noise regulations with citations and escalating fines and that problem will go away too. Put a moratorium on new tourist accommodations if you are serious about slowing the growth of tourism, instead of talking in the same breath about issuing new STR permits.

When I see DPP propose legislation based on “background” information that I know to be unrepresentative of the reality of the majority of the legal STR community, I wonder how wide your sources of information are? Is it primarily the hotel industry, or the small but vocal minority of chronic complainers about tourism? As a constructive suggestion, I think it would allow the DPP to be better informed if you also had a regular dialog with the STR community. I’m not a member of it since it is only open to realtor property managers, but HILSTRA (“Hawaii Legal Short Term Rental Association) would be an appropriate organization for DPP to have a regular dialog with. It is a State wide organization, with one of their founders here on Oahu. Personally, I would be happy to meet with any DPP representatives at any time who would like to hear the views of a legal STR owner.

Mahalo,

Bob Ellison



-----Original Message-----

From: Vicky Poland [mailto:rainbowinnaiea@gmail.com]

Sent: Thursday, August 19, 2021 10:59 PM

To: Takara, Gloria C

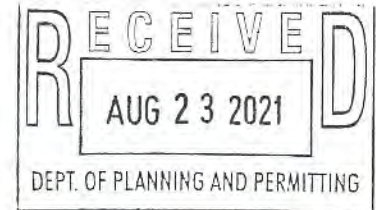
Subject: New STR regulations

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

Aloha. I urge you to keep in mind that those operating under the NCU permit that have been doing so for years are not multi million dollar corporations. We are your Mom and Pop businesses trying to stay open in such trying times. We provide a service for local families and neighbor island families wanting to stay away from the crowded areas. We also cater to those coming from the mainland who also do not want to be in a crowd at this time due to rising Covid cases. We have mortgages to pay and the added burden of higher taxes and more property taxes would lead to financial hardship for us. It is hard enough to afford property here in the islands. Please don't force us out of our businesses as well as our homes. Mahalo. Vicky Poland. Rainbow Inn

Sent from my iPhone

**From:** Vicky Poland [mailto:rainbowinnaiea@gmail.com]  
**Sent:** Monday, August 23, 2021 5:09 PM  
**To:** Takara, Gloria C  
**Subject:** B & B draft bill



CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

Aloha G. Takara.

Thank you for giving me the opportunity to voice my thoughts on the draft proposal to Bill 89.

Let me begin by saying we have owned Rainbow Inn (NUC license number 90/BB0038) since 2018 but the legacy of Rainbow Inn has been in operation for over 30 years in our residential community with no complaints from our neighborhood.

We are fully compliant with all the regulations and pay our taxes monthly. We are grateful to be able to continue to operate after 2019 Bill 89 was passed and once restrictions were lifted to Tier 2 in 2020.

We continue to serve the local community such as our current guest getting his flooring renewed in his home and needed a place affordable and close by to stay while the contractor was working on his home. We also recently had a local family from Miliani wanting a staycation in the midst of this Covid 19 pandemic but needed a safe quiet place for their family to enjoy our private pool. We also have a lot of repeat guests who come yearly to visit their grandchildren but do not want to stay in crowded areas such as Waikiki. Our guests serve the local economy by eating at local restaurants and shopping a PearlRidge and the local farmers markets. We also have many military personnel and their families. Some while relocating to other posts.

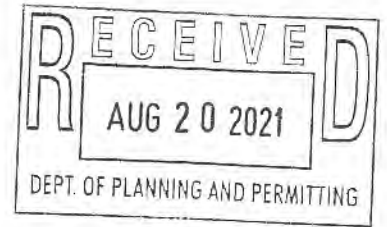
We are a small Mom and Pop business trying to make our mortgage payments on time and the rising cost of utilities. Our guests already pay 14.95% taxes (GET and TAT) and I feel that is high enough. We cannot compete with the deep pockets of the multi billion dollar hotel corporations. To expect us to pay the same taxes and increased property taxes is going to be a hardship to us and small businesses like us. Is it true that hotels do not pay taxes on their resort fees or parking fees they collect. Maybe that should be an added source of revenue for you to police the illegal vacation rentals,

Please take our story into consideration when working on your amendments to bill 89.

Thank you for your time.

Kind Regards

Vicky and Grant Poland  
Rainbow Inn Aiea.



-----Original Message-----

From: Robert Wright [mailto:bobber1233@gmail.com]

Sent: Friday, August 20, 2021 12:04 AM

To: Takara, Gloria C

Subject: DPP proposal

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

Aloha

Thinking we had seen enough underhanded wrangling during the Bill 89 debacle and passage we now watch as the city and county move into another assault of unprecedented proportions.

There is not one claim that has been submitted that holds water and proof of there existence during the Bill 89 hearing and even more so now.

1. Affordable housing: two weeks after Bill 89 passed the University of Hawaii on economic development produced a study showing there is little if any correlation between housing pricing and vacation rental industry. To prove the point in no uncertain terms a industry that was shut down for almost 10 months but housing increased at a rate of 23% during the same period. Please provide the proof to substantiate this claim.
2. Local 5 and its affiliates including the hotel lobby claimed that the vacation rental industry was stealing jobs, sending their members to the hearings to cry how their livelihood was being threaten. Fact: as of today our industry is providing jobs for cleaners, repairmen, caretakers the outlying local shops grocery stores and restaurants as the hotels have reduced services which has now created a loss of those very jobs under the pretense their protecting their guest, they are protecting their losses plan and simple, the vacation rental industry which as a whole lost millions during the shut down with no subsidies is under immense scrutiny to provide their guest with the utmost clean and sanitize units.
3. Back to affordable housing in Kailua the birth place of this assault on our industry where their big mouths and social media has actually been the culprit for there tourist woes, shut down a large affordable housing project along with the city council. The same players talking out of both sides of their mouths, the ole sane goes you can't have your cake and eat it to but alas in this situation obviously you can.
4. Noise from guest: I have a home in Makaha where mobile boom vehicles actually rattle the house as they drive by, the 4th of July is a constant with huge aerial fireworks being shot off all the time at all hours during the night not to mention the drafters on Farrington Hwy screeching through the night. My apartment in town has neighbors that I have had to call the police on several occasions due to noise all night. These are locals not tourist.
5. Parking please drive through any neighborhood on this island parking is a issue everywhere the notion that it is created by vacation rentals is beyond absurd. Maybe a transportation system that actually operated would help that out, oh let's see will we be alive to see that?
6. Tourism out of control blaming the vacation rental industry for that is once again completely unsubstantiated with zero proof. This conversation of creating the perfect tourist culture is laughable at best the fact is we are over run by the Cancun crowd that normally vacation in less expensive areas plus the closers throughout the world. One hand didn't know what the other was doing and wasn't prepared for the onslaught that came with opening up to fast which has now turned into a calamity of unknown proportions as this virus spreads across our home out here in the middle of the sea. And to

blame one industry for this, shame on you who do you think your kidding. I made a delivery at the Hilton Hawaiian village the others day and was appalled at the crowds 70% of them unmasked in the lobby area, I truly was concerned to get out of my van to make the delivery to the bell desk even though vaccinated and masked.

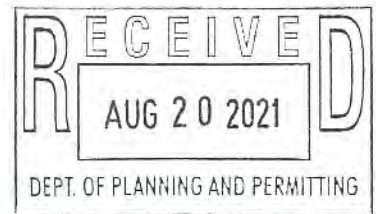
7. How does the DPP or the HTA become the authors of codes and regulations in this area and why is it the very industry that their trying to regulate cannot be part of this conversation it's not like this industry hasn't asked for common sense licensing and regulations over the years.

Where violations can turn into loss of license like with a drivers license or any other licensing. When did the HTA gain authority under its charter to provide any guidance on this issue-in the first place? And under the current situation at the DPP with numerous indictments served the ongoing inability of this department to function properly like getting a building permit to keep workers working, suppliers supplying and being able to build without the incredible cost overruns created by the inability of this entity to function, do you think this maybe a factor in the affordable housing arena? So the question becomes how does a department that is so inadequate dare to regulate anyone else till they clean up their own act.

The underhanded way this government even tried this ploy in the first place exemplifies it continued failure to meet the needs of the population as a whole but cater to special interest in this case the hotel industry. Be it the rail debacle to this orchestrated attack on a much needed industry being the fact that governments talk of moving into some other source of providing a economic base other than tourism and the federal government has failed miserably, christ I can't even get my drivers license renewed. Our leaders have been good at one thing pitting neighbors against neighbors using every opportunity to spread out right untruth using the power of the media to spread the untrue blame. The misguided path that has been chosen is outed shall we try another approach here and work together to craft a incredible experience for our guest and let them choose their stay options which in turn provides our economy the flow it needs to recover from this ongoing pandemic.

Robert Wright

**From:** Andrew MacInnes [mailto:amacinnes@gmail.com]  
**Sent:** Friday, August 20, 2021 5:37 AM  
**To:** Takara, Gloria C  
**Subject:** Objection Letter to Proposed Short-Term Rental Ordinance



CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

Attn: Mr. Brian Lee, Chair, City and County of Honolulu Planning Commission

Dear Mr. Lee,

I am writing to object to proposed rule changes regarding the length of stay and location requirements for short-term rentals in the City of Honolulu.

I've traveled to Hawaii multiple times over the years and have been to Honolulu several times. I've come to appreciate the ability to stay in short-term rentals over hotels as they offer much more comfortable accommodations as well as more amenities. This has become especially apparent during the pandemic when my work travels have afforded me opportunities to truly realize that short-term rental stays provide a much stronger and more personable connection to the places I go.

I have read the proposed language for the new land use ordinance and was very surprised the planning department would consider such a restrictive set of measures and changes. Reading the ordinance makes it seem it was practically written by the hotel industry to effectively block out any competition to their business model.

Not everyone who travels wants to stay in a hotel. The elimination of new short-term rental locations, especially in residential areas, will effectively force everyone to stay in designated hotel zones. These areas tend to be loud, crowded, and mass-marketed to appeal to everyone while offering a much less genuine travel experience. They are not as conducive for a mobile work office and you lose a real sense of what an area is like when you stay where everyone else from out of town stays.

Not to mention that tourists and visitors rarely stay longer than 180 days. You're practically permanently relocating with that minimum requirement.

I and many others have made life-long friends by staying in their short-term rental. We dine together, meet families, and experience an area like a local. This has never happened when I've stayed in a hotel. I'd much rather spend my money staying in a short-term rental and directly supporting a local resident than I would by giving my money to corporate hotel shareholders back in New York or Chicago.

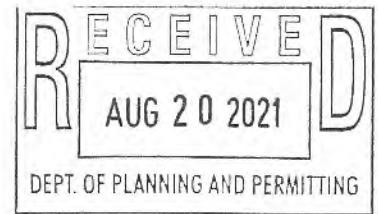
I strongly urge you and your Commission members to reconsider this short-sighted and unfair ordinance. As written, it only affords benefits to the hotel lobby and severely limits Hawaiian

residents from earning money, sharing the real Hawaii with visitors, and forcing travelers like me to stay in areas that are just like all the other hotel zones across the country. What's the benefit in that?

Thank you for considering this letter.

Sincerely,

Andrew MacInnes



**From:** hal arnold [mailto:halarnold2000@yahoo.com]

**Sent:** Friday, August 20, 2021 7:57 AM

**To:** Takara, Gloria C

**Subject:** Modifications to rental stay provisions: Honolulu Department of Planning and Permitting (DPP) dated August 13, 2021.

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Dear Brian Lee,

I vigorously oppose the amendments to the existing Bill 89 that will extend the length of short term rental stays. The existing agreement was hashed out over many months of heated and vigorous debate with members of the community; and, while many did not particularly agree with the outcome, we all suffered thru the process and are now living with the consequences.

The current proposal, which simply ignores all the effort put into the original proposal, is rushed and ill-conceived, and it simply gives up on all the months of planning and input from the community. People put hours of time and effort into that original agreement, and the council didn't even try to keep up their end of the bargain.

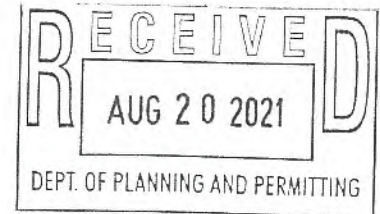
There are dozens of cities that are struggling with these same issues; others have listed those cities [Los Angeles, Seattle, Chicago and others] and they all allow for owner-occupied one month minimum stays that don't violate the state minimums and comport with individuals' properties rights.

Lastly, have you all considered what this proposal will do to the Lt Governor's plan import hundreds of short-term health care staff to serve in our hospitals?

Please consider how this new proposal might affect many folks on fixed incomes that might need to rent out a room or two to meet expenses.

H. Arnold

**From:** Kelly Larson [mailto:kelly.beachsiderealty@gmail.com]  
**Sent:** Friday, August 20, 2021 7:57 AM  
**To:** Takara, Gloria C  
**Subject:** Proposed Amendments to Chapter 21



CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

Good morning,

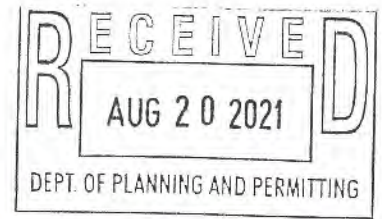
The proposed amendment will not work in the real estate market. We have large numbers of military personnel PCS to and from Hawaii. Often, when they sell their home, they need a temporary living arrangement of 1-2 months while they transition. The same occurs when they move here. They rent a place for a month or 2 while they either buy a home or find a long term rental.

This proposal is not only infringing on the rights of homeowners but makes the transition difficult on our military and government workers. 180 days does not serve our community needs.

Thanks,  
Kelly

**Kelly A. Lee (R)**  
CHMS, CRS, MRP, SRES, e-PRO  
*Beachside Realty, LLC*  
*Principal Broker*  
*600 Queen St. #C-1*  
*Honolulu, HI 96813*  
*808-225-0349*

**From:** David Boothby [mailto:dlboothby@gmail.com]  
**Sent:** Friday, August 20, 2021 8:42 AM  
**To:** Takara, Gloria C  
**Subject:** Opposition to the latest STR stay regulations



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I am writing to express my opposition to the proposed amendments concerning the length of short term rental stay provisions in Chapter 21, Revised Ordinances of Honolulu, 1990 by the Honolulu Department of Planning and Permitting (DPP) dated August 13, 2021.

My wife and I have owned a condo in Waianae/Makaha for 4 years where we live for part of the year and offset some of our expenses by sharing our home with others as a short-term rental. We have wonderful neighbors who are well aware that we rent our condo for part of the year; no parties are allowed; our building has off street parking and we enforce expectations that our guests respect the peace and quiet of others in our building and surrounding neighborhood.

We are committed to supporting our local community both financially and have participated in helping clean-up the park near our building and faithfully pay our GET & TAT taxes each quarter (in addition to our property taxes). Since there are no hotels north of Ko'Olina, it seems that promoting rather than discouraging vacation rentals helps communities like Waianae & Mahaka economically.

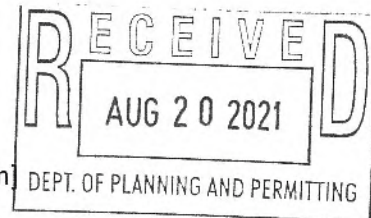
While I'm sure there are a few "bad apples", blaming tourists and owners of Short-Term Rentals for all the ills of the islands is counterproductive. It would seem that stepped-up enforcement of noise ordinances and going after those not paying their taxes would be a better course of action.

Again, please do not pass these terrible regulations. Thank you for the opportunity to share our thoughts.

**David Boothby**

84-1021 Lahilahi St., Apt 501 | Waianae, HI 96792-2040 | Home: 808-367-0592 Office: 360-871-2916

[DLBoothby@gmail.com](mailto:DLBoothby@gmail.com)



**From:** alohaspiritocceanbreeze@gmail.com [mailto:[alohaspiritocceanbreeze@gmail.com](mailto:alohaspiritocceanbreeze@gmail.com)]

**Sent:** Friday, August 20, 2021 9:15 AM

**To:** Takara, Gloria C

**Subject:** Re: Say hello to legal challenges

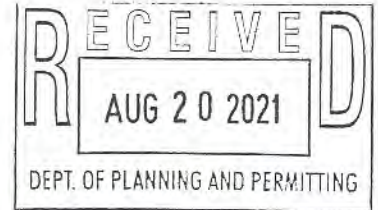
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Follow up

On Thu, Aug 19, 2021 at 11:55 AM 🐼 <[alohaspiritocceanbreeze@gmail.com](mailto:alohaspiritocceanbreeze@gmail.com)> wrote:

If the prior BB bill was shut down due to legal concerns, think about this one. Do you even have any decent lawyers who didn't go to UH look through this? Cmon wake up

**From:** Mike Heh [mailto:mikeheh100@gmail.com]  
**Sent:** Friday, August 20, 2021 9:49 AM  
**To:** Takara, Gloria C; Maria Heh  
**Subject:** Re: STR Ordinance Draft



CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

Aloha Again Mr Takara!

Upon closer read of this, and after conference with Owners of Legal STR's we understand that this is also an effort to eliminate the illegal vacation rentals, which we fully support!

But again we vehemently oppose the council making it harder for those of us with Legal STR's imposing these outrageously high completely unnecessary registration and renewal fees on us!

Also please eliminate the references in this legislation that could force those of us in the resort zoned areas of Waikiki or even Kuilima Estates at the N. Shore to be forced to go under an area Hotels reservation system. They will gouge us at 30% rates and that is unconstitutional, illegal and takes away our rights as individual property owners. Or will we still be able to maintain our own individual reservations?

Once these unfair parts are removed we are behind you the council to pass this bill. Will you please remove these two parts that are unfair to us legal vacation rental owners, because that's what makes it look like the city council is selling out to the hotel industry?

Michael and Maria Heh  
808-382-4515  
My TAT Tax ID: TA-155-111-0144-01

On Thu, Aug 19, 2021, 9:38 PM Mike Heh <mikeheh100@gmail.com> wrote:  
Dear Mr Takara,

Let's call this for what it is, the Honolulu City Council selling itself to the hotel industry. Clearly this is a plan for "legal short-term rentals" to be crushed out of existence. A \$5,000 registration fee to rent your legal STR suddenly and \$2,500 a year renewal fee?!

And a proposed ban on legal TVU's like the one we have been operating in the resort zoned area in Wakiki for 2 decades paying resort property taxes as well as TAT suddenly not allowed to operate the way this legislation reads. Is that correct, Mr. Takara?

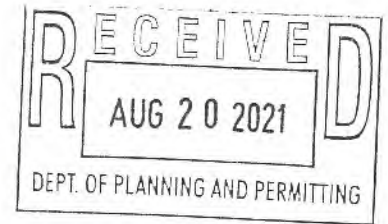
Please don't engage in any discussion on this terribly written totally flawed proposal that looks written by a hotel lobbyist and given to the city council to sign off. You are our neighbors you

are our friends, the hotel industry is not. Please ditch this junk legislation and don't sell yourselves out to the hotel industry!

Michael Heh

808-382-4515

My TAT Tax ID: TA-155-111-0144-01



**From:** richard rroddy.com [mailto:richard@rroddy.com]  
**Sent:** Friday, August 20, 2021 11:10 AM  
**To:** Takara, Gloria C  
**Subject:** Draft Memo

CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

Re:

*The Honolulu Department of Planning and Permitting (DPP) released a draft memo proposing amendments that will directly affect short-term rentals.*

Please help me to understand the possible benefits and rationale of some of these draft ideas:

### What the Draft Includes:

- The 30-day minimum stay will be adjusted to 180-day minimum stay

Question?:

Are students, contract workers, health care, military TDA, remote workers ALL going to be required to stay in hotels or if not, must they sign and be held to 180 days leases? Have there been calculations to determine how much "lost revenue" from TAT if this goes into effect?

- Waikiki Resort Zone TVUs will be eliminated

Help Me Understand?:

This sounds like a calculated effort by the Hospitality Industry to require all visitors, temporary workers anyone who comes to Hawaii temporarily, etc stay only at hotels. Help me understand the rationale behind this please?

- Only hotels will be able to operate within the Resort Zone

What is the Rationale?:

It sounds like this plan will eliminate grandfathered TVUs and ALL Transient Accommodations will be controlled by the Hospitality/Hotel Industry. That seems like a huge government overreach? Or whatever you call it.

As I have watched this issue be vetted for several years now this has caused more divisiveness, anger and struggle between factions. There has never been Any Aloha among people about this.

It is unfortunate that people cannot talk with about TVUs, visitors coming to Hawaii, vaccines, masks, riots, economic disparities, BLM, without temperatures boiling, violence erupting, and people becoming "vigilantes" reporting each other to authorities.

This whole TVU thing could have and should have been a mediated and compromised issue. Please use some common sense, Warmest Aloha and compassion in your dealings with this issue and with the many people who supplement their income in this great "cottage industry". Mahalo!

Kind Regards,

Richard Roddy

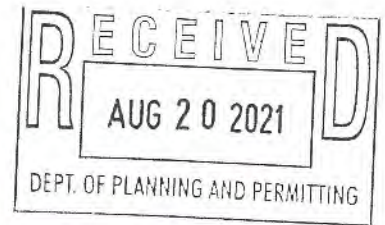
1333 Naulu PL.

Honolulu, HI 96818

[richard@rroddy.com](mailto:richard@rroddy.com)

Warmest Aloha,  
Richard Roddy  
[richard@rroddy.com](mailto:richard@rroddy.com)  
(520) 241-8497

**From:** Janet Moranda [mailto:janet.moranda@gmail.com]  
**Sent:** Friday, August 20, 2021 11:44 AM  
**To:** Takara, Gloria C  
**Subject:** short term rental controversy



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Dear Greg,

Please pass on my comments - I am so disappointed in some of the things I am hearing about short term stays. I visit Oahu for a place to go and relax on your quieter beaches and towns. I have been visiting for 35 year usually 10 day stays as work permits. I generally travel with a friend, visit family and then go on to other places. I am not interested in staying in hotels in the Waikiki area. I do go around the island and spend my time and shop at small businesses as I am a small business owner myself. I heard they are thinking of having quaint vacation rentals - VRBO and AirBnB be now regulated from 30 days to a possible 180 days. What are they thinking? Even the 30 days have been hard on owners that are using this to supplement their incomes. Do you want us to go elsewhere? More stays and shorter ones also give house cleaners more work, handymen more things to fix.

I recently paid an obscene amount of money to rent a car there.

Covid has changed the way some people will travel, and small condos and homes feel safer than hotel stays and crowded Waikiki.

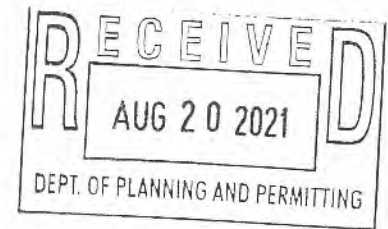
I have to wonder if big hotel lobbyists are not behind some local politicians.

Make sure your getting your taxes but don't make it so no one wants to spend their money vacationing on your island. by limiting it to people who have 6 months to stay at a time have access to the nicer quaint locations. They aren't going to eat out at restaurants and spend the same way as someone who knows they are here 2 weeks and want to enjoy and see everything. So disappointing

--

Janet Moranda  
Chef/Owner  
916-792-6485

**From:** Dana Seagars [mailto:d\_seagars@yahoo.com]  
**Sent:** Friday, August 20, 2021 1:30 PM  
**To:** Takara, Gloria C  
**Subject:** STR Ordinance Draft



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To whom it may concern.

As an owner of LONG TERM RENTAL PROPERTY for a decade in Kailua, I STRENUOUSLY OBJECT to the proposed ordinance that would extend the STR period from 30 days to 180 days!! This is ABOLUTELY ABSURB and constitutes a "TAKING" of legitimate income. This is huge government over-reach into personal land ownership and meddles deeply into my ability as a landlord to offer a place for people in transition to settle and live until such time as they can find homes of their own.

My rental property (a legal permitted ADU) has been leased to a number of people in transition as a result of moving to the island, temporarily changing residences, while improving an existing residence, displaced because of job changes or due to separation and divorce. This proposal will discriminate against those individuals because as a landlord, my response to such a change could only be one of two approaches:

Raise rents approximately 15% to cover TAT and other expenses;

Sell residential rental property and move to another island less having less punitive attitudes to landlords doing the community a favor by providing decent afford residences.

My recommendation is that if you MUST increase (and you need to justify to me why) the duration of STRs, then only change it to 60 or 90 days MAXIMUM and that TAT only be applied to rentals of that or lesser duration. This will reduce tourist usage of rental properties while protecting landowners providing residences necessary for assisting those in transition.

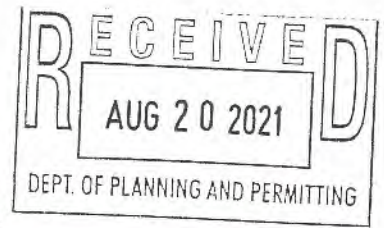
Sincerely,  
Dana J Seagars  
70 N Kainalu Dr  
Kailua, HI 96734

**From:** L. Matsueda [mailto:lmatsueda@yahoo.com]

**Sent:** Friday, August 20, 2021 2:21 PM

**To:** Takara, Gloria C

**Subject:** Legal Vacation Rentals and 082621 Committee on Zoning and Planning



CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

Dear City Council Members!

Understanding that this is partly an effort to eliminate illegal vacation rentals, which I support, but it looks like a hotel lobbyist wrote it to also crush legal vacation rentals owned by your neighbor's friends and people you represent.

Does the council support making it cost prohibitive for those of us with Legal STR's by imposing these outrageously high unfair \$5,000 registration and \$2,500 renewal fees on us?

Does the city council support making it cost prohibitive for those of us with Legal STR's by imposing these outrageously high unfair \$5,000 registration and \$2,500 renewal fees on us?

Does the city council also support references in this legislation that could force those of us in the resort zoned areas of Waikiki, Kuilima Estates at the N. Shore and other areas to be forced to go under a local Hotels reservation system and lose our rights to manage our own properties?

They will gouge us at 30% commissions and other charges and that is unconstitutional, illegal and takes away our rights as individual property owners.

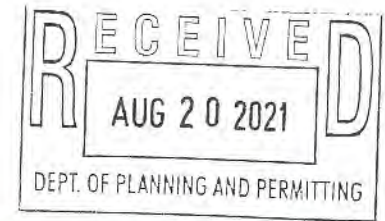
Please remove these two parts that are unfair to us legal vacation rental owners, otherwise it looks like the city council is colluding with the hotel industry to unfairly punish legal vacation rental owners. Please let us know if we have your support.

Leyla M Matsueda

808-554-6881

My TAT Tax ID: TA-201-652-0192-01

**From:** Roy Dole [mailto:roylarissa@gmail.com]  
**Sent:** Friday, August 20, 2021 10:03 PM  
**To:** Takara, Gloria C  
**Subject:** Short term rentals



CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

**Aloha Chair Brian Lee, and Members of the Planning Commission,**

**DPP's latest proposed revisions to Chapter 21 dealing to Transient Accommodations caused me great concern. The main issue is that it intends to ban TVUs in the Waikiki resort district (Table 21-9.6(A) Waikiki Special District Permitted Uses), that have already been allowed for decades. This exclusion bothers and concerns us.**

**The legal TVU and B&B are located in Waikiki's resort district, which is in line with the Waikiki special district's growth plan. Management of non-conforming use STRs in non-resort areas, as well as enforcement activities on unauthorized STRs in residential districts, should be the emphasis of any efforts to regulate STRs and mitigate their affects on apartment buildings. The properties in Resort Zones should be protected.**

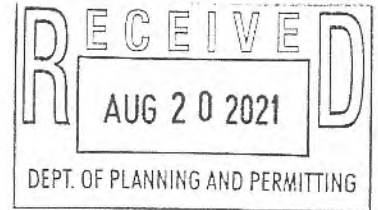
Please take the following points into consideration:

1. The prohibition of TVUs in the Waikiki Resort District runs counter to DPP's stated objectives: The new proposal has two overall purposes, according to the DPP memorandum: 1. Reduce impacts on residential neighborhoods, and 2. Regulate STRs that are only permitted in or near to current resort zones. We are aware of the problems that STRs (TVUs and B&Bs) can pose in residential areas. Only the Waikiki resort district should be authorized to use STRs. TVU proprietors in the Waikiki Resort District have been operating LEGALLY for decades, as they are legal use in Waikiki's Resort Zone. c. The problem is that there are a lot of illegal STRs in non-resort areas. TVUs and B&Bs in resort areas are, and have always been, legal. I'm not sure how banning lawful TVUs in Waikiki's resort zone achieves either of the above two objectives.
2. TVUs have been permitted in the Waikiki Resort-Mixed Use District since the LUO was adopted. It is unfair to deny TVUs in the Waikiki Resort-Mixed Use District since properties have been purchased over decades for TVU use. Waikiki Resort Zone's TVU and B&B privileges are taken away with this bill. Is it possible to strip property owners of the legal right to use their properties in the appropriate zone? Is there a legal basis for stripping the specific use rights of owners who bought these units of their specific use rights based on the LUO's permitted use prior to this proposed legislation? Do these owners of legal TVUs receive the due process they deserve in regard to their rights? Purchasing a house that is zoned for residential use, then 10 years later receiving the message "Sorry DPP changed the land use, residential use is no longer permitted." Will I have to leave the property since it is

- no longer an acceptable use? Is it necessary for me to be able to predict what will happen 10 years after purchasing the property? What do you think about this?
3. In non-resort zones, the use of TVUs which conform to all legal requirements is permitted, but non-conforming TVUs are not allowed?? Why is this allowed? If the owner holds a valid NUC, nonconforming use of TVU can continue in non-resort zoning districts. Why is it that businesses and non- resort zones allow non-conforming use with a valid NUC, but TVU units in Waikiki resort zones are now banned because they are legally non-conforming?
  4. Is there a logical reason why existing legal conforming TVUs in Waikiki Resort Zone are prohibited while TVUs in A1/A2 of the Gold Coast are permitted? TVUs can be created in North Shore areas as part of a plan to rezone parcels in the A1 & A2 zones as “resort” in order to accommodate existing resorts. This means that TVU's will no longer be allowed in the Resort Zone of Waikk, while TVU's will still be allowed in non-resort areas such as the Gold Coast. As with #3 above, this logic does not make any sense. Another contradiction arises from these provisions.
  5. As part of its proposal, Waikiki apartments would be permitted to use hotels in order to keep tourists in the area. Why did Waikiki resort zone television use be removed, while the non-resort zoned apartment district of Waikiki property was able to accommodate more hotel units? In Waikiki, television units can be used in resort zoning districts. TVU ownership is not limited by the current LUO. The LUO has allowed property owners to purchase multiple legal TVU units in Waikiki. The draft bill places a restriction on TVU ownership, infringing upon the legal rights of TVU unit owners in the Waikiki resort zone who purchased and own TVU properties. A TVU will also be defined more broadly, moving from 30 days or less to 180 days or less in the draft bill. I find that unreasonable. Those who arrive in Hawai'i on a leisure or business trip lasting anywhere from one to 30 days can make use of TVUs (Transient Vacation Units). By their nature, these units are temporary and are meant to be used only on a temporary basis. A "short-term" rental is comparable to hotels renting rooms on a nightly basis. As well, by doing this, all of Oahu's residential parcels currently allow for 30-day minimum usage might be altered substantially. The situation may pose problems for those who rent out their units on a monthly basis. Numerous property owners purchase their properties with the understanding that they can rent the property monthly. Renting a TVU for no more than 30 days is the goal.

Mahalo for your consideration.

Roy Dole



-----Original Message-----

From: Carl Friedl [<mailto:carlkailua@gmail.com>]

Sent: Friday, August 20, 2021 9:36 AM

To: [info@honoluludpp.org](mailto:info@honoluludpp.org)

Subject: Support of Illegal Vacation Rental Enforcement Bill

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

My name is Carl Friedl and I support the proposed bill to limit vacation rentals in residential neighborhoods and enforce the law to promote better communities and a managed and regulated tourist industry.

Without enforcement, an ordinance is just words put on paper reflecting wasted time and effort. There is no point to writing a law if there is no intent to enforce it. Additionally, there is no point to the law if there is no funding mechanism to support the enforcement provisions.

Please ensure the enforcement component is funded so the law can be effective. We've seen how well unenforced ordinances work with regards to this issue, particularly when there is so much money involved.

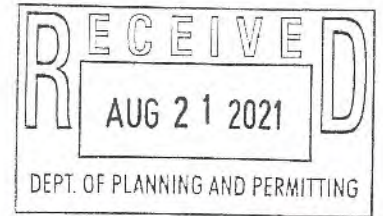
I support this bill in support of livable communities and a new responsible tourism industry.

Thank you for the opportunity to testify on this measure.

Carl Friedl  
1553 Keolu dr., Kailua HI

Sent from my iPhone

**From:** Beth McKay [mailto:McKayBeth@msn.com]  
**Sent:** Saturday, August 21, 2021 7:52 AM  
**To:** Takara, Gloria C  
**Subject:** Short Term Rental laws



CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

To Whom it may Concern at the Honolulu Planning Commission,

I am writing to respectfully request the Commission reject the new proposal to adjust the Short Term Rental laws from 30 day minimum stays to 180 days minimums. Many of us in North Shore rely on periodic 30 day bookings to pay our mortgages. Many of us have registered, tax paying 30 day rentals that we live in part time and rent out when we cannot be on the island. I personally had to leave island to take care of a medical crisis and can only return periodically. Restricting Short Term rentals to 180 day minimums would effectively shut down many of our rentals. Those who are not adhering to the 30 day minimums would be unaffected, it would be those of us who are operating within the law.

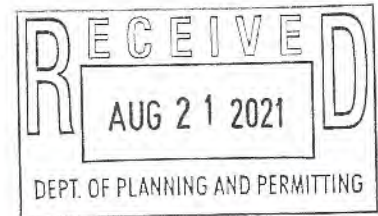
In addition, the North Shore benefits from having families that actually stay in North Shore for 30 days. These visitors are more likely to shop and eat in local establishments and contribute to the local community. 180 days is not feasible for most visitors.

Many visitors that come to Ohau will not come if they have to stay in hotels and cannot stay in the North Shore. Offering these visitors home settings for their families benefits the North Shore and the businesses here.

Thank you for your consideration.

Blessings, Beth

**From:** jillpaulin@gmail.com [mailto:jillpaulin@gmail.com]  
**Sent:** Saturday, August 21, 2021 9:09 AM  
**To:** Takara, Gloria C  
**Subject:** Opposition to LUO Amendments



CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

Aloha Gloria,

Please forward my letter below to the members of the Planning Commission.

Mahalo,

Jill Paulin

**From:** [jillpaulin@gmail.com](mailto:jillpaulin@gmail.com) <[jillpaulin@gmail.com](mailto:jillpaulin@gmail.com)>  
**Sent:** Thursday, August 19, 2021 8:59 AM  
**To:** [gtakara@honolulu.gov](mailto:gtakara@honolulu.gov)  
**Subject:** Opposition to LUO Amendments

Aloha Members of the Planning Commission,

I am very disappointed in the DPP's proposal to amend the LUO. There are several elements that I feel are very unfair to those that are involved in the either the STR or monthly rental business. Like everyone, we have struggled through the pandemic. There has been no relief for landlords. This proposed legislation changes the rules once gain. I can't imagine being in another line of work where the rules changed so often, threatening one's income.

Here are my concerns:

- Changing the STR definition to 180 days and less: I rent 2 properties for 30 day minimum. I also have long-term rental properties. Many of my 30+ day tenants are on the island for work (ie; engineers working on the wind turbines, traveling nurses). I have also rented to residents that need to vacate their homes temporarily for various reasons including floods. TAT and GE taxes are paid on these stays. This change would be one of the first in the nation to say that renters must rent for a minimum of 180 days. It really makes no sense.
- Changing NUC TVU's property tax rate to that of the Hotels: I fought hard a year and a half ago to stop this change. City Council approved allowing NUC's to keep their grandfathered property tax category. The Property Tax commission also agreed with us that hotels have completely different economics (food/ alcohol sales, restaurants, etc.) that allow them to afford the higher tax basis. They are also subject to very different building requirements that allow for

density and small footprints. It is not fair to have TVU's such as Kuilima Estates taxed as a hotel when they are subject to different building regulations and limited on the variety of revenue sources.

- Registration Fees for TVU's: This appears to be one more thing to try and put TVU's out of business (led by the Hotel industry). Most of the TVU's are not run by corporations who can afford to contribute year-after-year to our politicians. Do the Hotels pay a registration and annual fee for each room?

I'm sure you'll hear from others regarding the proposal that the hotels must manage the TVU's. This is also outrageous.

Please keep in mind that these TVU's are the only income for many local residents. We live here, pay honest wages and spend our income here on the island. The hotels are owned by corporations that pay minimum wage and do not put the net income back into our economy. We are smaller, but we should also have a voice.

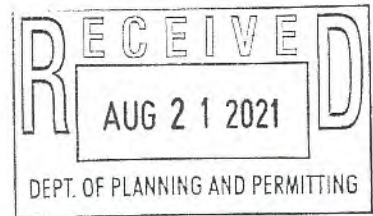
Lastly, please consider if someone changed your income or the terms of your employment every year. It is very, very stressful in a time when we are barely making it.

Thank you for your consideration.

Jill Paulin  
Haleiwa, HI



Virus-free. [www.avast.com](http://www.avast.com)



**From:** Shadowgiest [<mailto:ninpo21@gmail.com>]  
**Sent:** Saturday, August 21, 2021 10:36 AM  
**To:** [info@honoluludpp.org](mailto:info@honoluludpp.org)  
**Subject:** NEW STR AMENDMENTS

CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

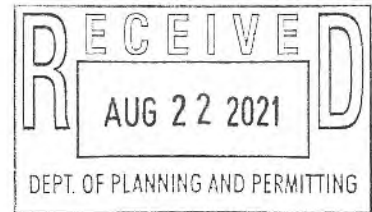
To the Honolulu DPP,

The portion in your proposal about forcing the owners or STRs in condotels to return their units to the hotel rental pool does nothing to aid in the bill's goal. The original intent of the 2019 bill stated that its focus was on keeping tourists out of residential areas. So how does not allowing individuals to run STRs in these units, which are already zoned for nightly rentals and already in resort areas, help to preserve the neighborhood areas?

Furthermore, the proposal also aims to not allow owners of these units to use them as a primary residence. Again the original aim of the bill was also to allow more housing available to locals, yet this does the exact opposite. At any rate, If residents in these areas don't mind the constant police, ambulance, and fire sirens, city traffic and tourists, I don't think they will be able to tell the difference between a tourist staying in a hotel rental pool room or a personal STR in the same building.

V/R,

Ash Armstrong



-----Original Message-----

From: John Haden [mailto:haden@me.com]

Sent: Sunday, August 22, 2021 8:38 AM

To: Takara, Gloria C

Subject: Opinion on chapter 21 ROVH 1990

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

> TO: Members of the Planning Commission

>

> SUBJECT: Proposed Amendments to Chapter 21 (Land Use Ordinance [LUO]), Revised Ordinances of Honolulu (ROH) 1990, as Amended, Relating to Transient Accommodations.

> Eal TVU unit in Waikīkī based on the LUO. The draft Bill places a limitation on TVU ownership which is another violation of the legal right of TVU unit owners in Waikiki resort zone who bought and own TVUs properties, when no such limitation was in the LUO.

>

> 7. The draft Bill also changes the definition of a TVU from 30 days or less to 180 days or less. That is not reasonable. TVUs (Transient Vacation Unit), by its name, are "transient" in nature and are meant to be a lodging option for visitors who come to Hawai'i on a leisure or business trip lasting anywhere from one to 30 days. It is a rental for a "short term" such as a hotel who rents rooms on a nightly basis. Also, this would essentially change the long standing land use for all residential parcels across Oahu that allow 30-day minimum use. It creates an issue for people who rent out their units on a "month to month" basis. There are a lot of property owners who purchased property with the understanding they can rent the property on a month to month basis. True TVUs should remain 30 day or less rentals.

Respectfully ,

John Haden

Property owner

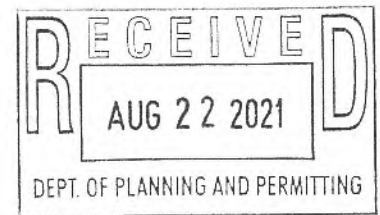
-----Original Message-----

From: Luke McManus [mailto:luke\_mcmanus@yahoo.com]

Sent: Sunday, August 22, 2021 1:34 PM

To: Takara, Gloria C

Subject: Resort zoning Waikiki



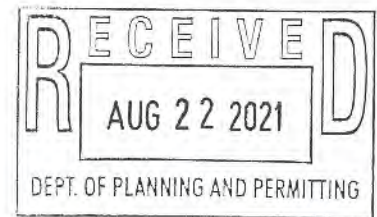
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The thought of the Hotels and state being so greedy makes me sick. The fact that the average person try's to get ahead in life and their Own government tries to deter them from than goal with high taxes is garbage. Even with the current taxes and laws breaking even seems like a win. Making a worthwhile profit is seldom realized. And now you want to make it even more impossible by imposing fees?

So now answer me this, does the property taxes revert back to residential automatically or must we still pay the ridiculous hotel tax rate?  
Must we jump through hoops to change it? The deadline for next years change was on August 20th.  
Trying to convey the anger I feel Without using harsh language is nearly impossible so ill end with that!

Good Day

**From:** Patricia Melnikoff [mailto:pmelnikoff@hotmail.com]  
**Sent:** Sunday, August 22, 2021 2:51 PM  
**To:** Takara, Gloria C  
**Subject:** Proposed bill to increase minimum rental period from 30 to 180 days



CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

I am writing to voice my strong opposition to this proposed bill. While I am sympathetic to the ongoing issue of illegal vacation rentals, making this sort of change is equivalent to "missing the nail with the hammer." Ongoing policing of illegal rentals should be the goal.

The ordinance that was passed in 2019 did a good job of identifying and addressing the issues. Most visitors come for 1-2 weeks, and the illegal rentals churn these rentals non-stop. Many other renters are seeking a shorter lease period because they are between residences, new military arrivals seeking off base accommodations, or on a short assignment for work. There are some vacationers seeking a longer rental period, but they are definitely in the minority of cases.

Please keep in mind that 2020 and 2021 have been extremely atypical. For the first 6 months of the pandemic prior to the Safe Travels program, the volume of visitors was historically low. I will admit that it was glorious to experience empty beaches, but it was also not economically sustainable. Unemployment surged, and a multitude of restaurants and small businesses suffered or went out of business. With the implementation of the Safe Travels program, mainlanders opted to travel to Hawaii because it was a domestic locale and they felt very safe with the pre-travel testing protocols. Hotel rooms and airfare were also offered at discounted prices. All of these factors led to a huge upswing in visitors from the depths of the pandemic, and the change seemed astronomical to residents. I strongly believe that the volume of tourism will normalize within the year, causing demand for illegal rentals to drop.

Please do not make any rash decisions to cut off legal rental income from property owners in Hawaii. Let's focus on implementing the 2019 rules properly before resorting to such draconian measures.

Thanks for considering this and Mahalo!

Patricia

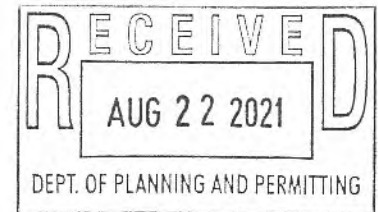
-----Original Message-----

From: Marcy Williamson [mailto:[marcymwilliamson@gmail.com](mailto:marcymwilliamson@gmail.com)]

Sent: Sunday, August 22, 2021 5:46 PM

To: Takara, Gloria C

Subject: DPP changes



CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

Attention: Brian Lee

I would like to address proposed amendments to the bill concerning short term rentals. As a home owner in Kuilima Estates East I will be impacted by the registration fees.

I live on Oahu for 6 months of the year. The maximum amount of time my condo is in the rental pool is 6 months. As it stands I pay GET (4.71%) and TAT (10.25%) for a total of 14.96%. In addition, I pay state taxes on all income from the semi-yearly rental income. The maximum amount of earnings I have made is under \$15,000.00. An additional registration fee of \$7500.00 represents half of that income. This is half my best yearly income. This follows a year of restrictions due to covid, no rental income for 2020 and limited income for 2021. I feel this is an excessive burden for part time residents, especially due to the financial hardships of covid. Please reconsider imposing a registration fee for senior citizens in my position who want to continue enjoying residency on the beautiful island of Oahu,

Sincerely,  
Marcia Williamson

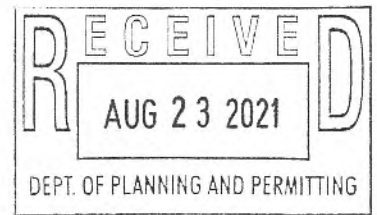
-----Original Message-----

From: Barbara Carvalho [mailto:abvr516@gmail.com]

Sent: Monday, August 23, 2021 3:07 AM

To: Takara, Gloria C

Subject: Vacation Rental



CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

To: Mr. Brian Lee

For over 20 years we have rented a portion of our home to visitors from all over the world. We have paid the GE tax and the TAT taxes.

It has been very difficult since 2019 to find renters for 1 month at a time. Now the new proposal will make it almost impossible to rent to visitors.

I am a widow and this is my income. I have tried to comply with the mandates the state has passed in 2019 but this new mandate is not even feasible.

As a home owner, I should have the right to rent to visitors for any time period, as long as I respect my neighbors.

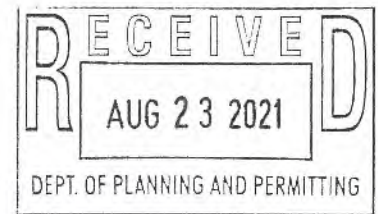
I have wonderful neighbors and we respect each other and live as OHANA.

Respectfully,

Barbara Carvalho

Sent from my iPhone

**From:** Brian Ng [mailto:brian65018@gmail.com]  
**Sent:** Monday, August 23, 2021 3:08 AM  
**To:** Takara, Gloria C  
**Subject:** Attn: Brian Lee



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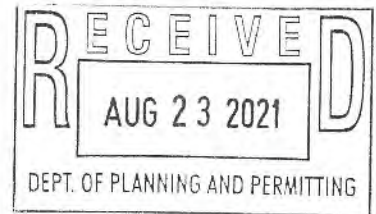
Re: Chapter 21 LUO, ROH 1990

Hi Brian - My property manager informed me that Hawaii is planning to outlaw all short term rentals on the island even in areas zoned for resorts except for the A-1 and A-2 areas. If this is accurate, I'm extremely disappointed. I bought my small condo in Waikiki with the intention of having a place to stay when I visited Hawaii every year and would rent it out on Airbnb in the meantime. Since it's in a resort zone, my opinion is that this would not impact local residence, and therefore, the zoning would never be reversed.

Additionally, I renovated this unit to provide a unique experience that's also affordable for someone visiting and have held on to this unit even as Covid regulations have restricted someone from visiting the island. This would be a huge blow to us to not be able to rent this out short term, and in my opinion, is a huge mistake given the jobs that investors have provided by investing in legal short term rentals.

I want to formally oppose this bill if the intent is to remove all short term rentals outside of A-1 and A-2.

Best,  
Brian Ng  
Condo: 2463 Kuhio Dr. #406, Honolulu, HI 96815



**From:** Pascal Brandalise [mailto:brandalise.pascal@yahoo.com]

**Sent:** Monday, August 23, 2021 8:00 AM

**To:** Takara, Gloria C

**Subject:** Proposed Amendments to Chapter 21 (Land Use Ordinance [LUO]), Revised Ordinances of Honolulu (ROH) 1990, as Amended, Relating to Transient Accommodations.

CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

Dear Planning Commission Members,

I am very concerned regarding the proposed amendment to Chapter 21 relating to Transient Accommodations.

- According to this bill, the purpose of this ordinance is “to better protect the City’s residential neighborhoods and housing stock...”
  
- According to this bill, short term rentals are:
  - “Disruptive to the character and fabric of our residential neighborhoods”
  - “They decrease the supply of long-term housing for local residents”
  - “They increase the prices of rent and housing”.

I don’t disagree with the above purpose and facts.

I believe the best way to protect residential areas, housing stock and avoid the negative effects of STR in residential neighborhood, is simply by enforcing Ordinance 19-18 (Bill 89).

However, I have a few questions and concerns about the proposed amendment.

**1: Sec 21-5.360 Condominium Hotels: “Units in a condominium-hotel must be part of the hotel’s room inventory”**

- First, I don’t see how this Section is related to the original purpose of this ordinance, to protect residential neighborhoods. Condominium-hotels are in Waikiki, in resort zones or adjacent to resort zones, and are not in residential neighborhoods. Secondly, how does forcing

property owners of units in Condominium-hotels to be part of the hotel pool have anything to do with the original purpose of this proposed amendment?

- I don't see how this Section can have any benefit for the local community. The only benefit of this Section is for the hotel industry, by simply eliminating any possible competition, and by creating a monopolistic market.

I am owner of a legal STR (TVU) in the Waikiki resort zone, in a Condominium-Hotel. I opted to have my unit managed by a professional short-term management company, instead of the hotel pool. The company that manages my unit is a licensed and bonded company. They have about 25 employees (all living and working on island) and provide a great and professional service to me as an owner and to our guests. It is important to keep the market competitive, rather than creating a monopolistic environment for hotels.

The fact that units in Condominium-Hotels can be managed either by the hotel pool or by third-party management companies creates a healthy and competitive market. Imposing that all units in Condominium-Hotels must be managed by the hotel pool, creates a monopolistic market. It is obvious that this type of condition has only negative effects for the public (high prices and low-quality service), and only benefits the hotel industry. In a purely monopolistic model, the monopoly firm can restrict output, raise prices, and enjoy super-normal profits in the long run.

It is obvious that hotels could charge any management fees to the owners of hotel-units since the owners wouldn't have anywhere else to go. This could even turn the investment into a loss and force many property owners to sell their units.

Some Condominium-Hotels have up to 1,000 hotel-units. One hotel operator would probably be overwhelmed by having to manage all the units. This would probably create a lower quality of service to the guests.

I agree that the number of tourists coming to the islands needs to be limited. A healthy tourism industry would be highly beneficial for this island. This can be reached by limiting the number of tourists, but keeping a healthy, professional, and competitive market. This makes sure the supply of vacation units is kept in good condition and keeps the quality of service high.

## **2: Sec. 21-5.730.1: To allow TVUs in the Gold Coast;**

It would be interesting to know how this section is in accordance with the original purpose of this amendment, to:

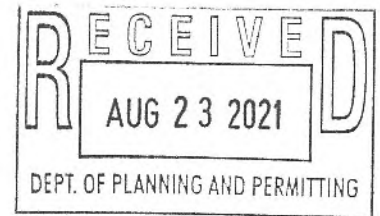
- Stop decreasing the supply of long-term housing for local residents

- Stop the disruption to the character and fabric of our residential neighborhoods
- Stop the increase of the prices of rents of housing.

**3: Sec. 21-5.730-2: "Each natural person may own no more than one unit that is registered as a B&B or TVU."**

I don't understand how this section should have any positive impact on the local housing market. Since the number of legal TVUs and B&B will not increase, why does it matter how many units each person owns? Aren't we living in a free market, where people can invest, own, purchase whatever is legal? What would come next? Limiting the number of house someone can own, or the number of car someone can own? I don't believe such a drastic regulation and limitation of ownership can protect the city's residential neighborhoods and housing stock.

Best regards,  
Pascal Brandalise



-----Original Message-----

From: Audre Kleven [mailto:audrekleven@yahoo.com]

Sent: Monday, August 23, 2021 8:03 AM

To: Takara, Gloria C

Subject: Oahu Draft Memo on Short-Term Rentals - Impact to Owners - A TERRIBLE IDEA

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

Dear Mr. Takara,

If this passes there will be general chaos and collapse of the condo market in Waikiki. I will certainly sell and so will thousands of other people. And the Hotel operators who already influence government will have even more power. This legislation is un-American and a horrible idea. Please Do Not endorse it or vote for it.

Is this really happening? It seems like a nightmare.

Audre Kleven

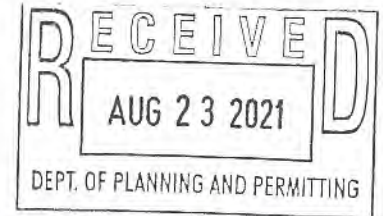
Condo Owner in Waikiki

**From:** sigita adams [mailto:sigitaadams@yahoo.com]

**Sent:** Monday, August 23, 2021 8:52 AM

**To:** Takara, Gloria C

**Subject:** Re Proposed Amendments to Chapter 21 (Land Use Ordinance [LUO]), Revised Ordinances of Honolulu (ROH) 1990, as Amended, Relating to Transient Accommodations



CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

Re: Proposed Amendments to Chapter 21 (Land Use Ordinance [LUO]), Revised Ordinances of Honolulu (ROH) 1990, as Amended, Relating to Transient Accommodations

Dear Brian Lee,

I'm writing my concerns and **objections to the proposal by Dean Uchida of the Department of Planning and Permitting as presented in the August 13, 2021 Memorandum.**

I recently invested in a condo unit in Waialua in hopes of one day retiring there. Our plan in the meantime is to make it a vacation rental. With the current 30 day minimum rental my clientele is limited, but with the proposed 180 day minimum, it would be impossible to find vacationers willing to rent as the price of the rent would have to increase to compensate for the lack of clientele turn-around and proposed measure and TVU registration (if it was even possible to get).

Furthermore, allowing the continued special treatment for hotels is an outrage and discriminatory and will promote Hawaii vacations to only the rich. I believe private vacation rentals fill a necessary void which is regulated by the industry itself without the need of government regulations. If a client is unhappy, the word will spread and the unit won't get rented without any oversight of the government. Government Administration for the sake of itself is like a snake eating it's own tail and will end up causing more damage than good.

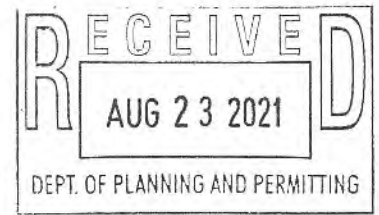
This would have a direct impact on the value of my property and as it still has a mortgage, it will force me to sell at a loss.

I believe the results of such an Amendment will be felt throughout the industry and will spill over into other areas as well. An immediate impact will be felt on companies that manage rentals which will go out of business costing jobs for those who profit off the managing companies.

This proposed Amendment is completely unsustainable and should not be allowed.

Sincerely,  
Sigita Adams of Honolulu

**From:** Uehara, Gail  
**Sent:** Monday, August 23, 2021 9:34 AM  
**To:** Takara, Gloria C  
**Subject:** FW: Zoning and Planning Testimony



Good morning Gloria,

Forwarding the testimony below for the Planning Commission's September 1, 2021 meeting.

Mahalo,  
Gail

**From:** CLK Council Info  
**Sent:** Thursday, August 19, 2021 2:01 PM  
**Subject:** Zoning and Planning Testimony

## Written Testimony

|                             |                                                                |
|-----------------------------|----------------------------------------------------------------|
| Name                        | cedar kehoe                                                    |
| Phone                       |                                                                |
| Email                       | <a href="mailto:cedarkehoe@gmail.com">cedarkehoe@gmail.com</a> |
| Meeting Date                | 09-01-2021                                                     |
| Council/PH Committee        | Zoning and Planning                                            |
| Agenda Item                 | Unknown- Sept 1                                                |
| Your position on the matter | Oppose                                                         |
| Representing Organization   | Self                                                           |

Short Term Vacation Rental  
Opposition To Proposed Amendment To Chapter 21; August 2021  
180 days is Unreasonable Keep the 30 day rule  
The Department of Planning and Permitting (DPP) has submitted a draft bill proposing amendments related to Transient Accommodations. These new regulations are not fair regulations and are based on untrue statements about the impact of short-term rentals (STR). The background and analysis from DPP are opinions of the author and are not true statements.  
I live on the North Shore and I want to offer my legal guest suite as a short-term vacation rental for extra income in my retirement. My residential street is not negatively impacted by my STR as I do not impact my neighbors. My

booking are all 30 days compliant with the rules, I live on site and I have on site parking.

You have an obligation to draft reasonable regulations. I live on my property, and I will never open-up my legal guest suite for long term renters so that I can keep the unit for my family to visit, they live on the mainland; thus, my guest suite will never generate additional housing on this island. I believe if the homeowner is also a resident on property, I should be allowed to do short term rentals. I live here on the island of Oahu, and I know my neighbors. Whole-home vacation rental owners, like myself, care about our neighborhoods and want to help find a solution that ensures travelers continue to visit this island. Changing the term of a Transient Vacation Unit (TVU) to require a 180-day rental period shuts down everybody. I often rent to traveling nurses who stay 1 to 3 months now they will have no place to rent. This change is not fair and puts blame on STR unfairly.

Keep the rental period to 30 days and require that the owner live on property and the problems are solved! The reported problems in the past have all been properties without owners living on site. I offer onsite parking, my unit is legal and safe, I have insurance, I just will not rent long term because I want my guest suite for my kids when they visit. If I rent my guest suite for more than 180 days, I have no right to ask the tenants to move out so my family can visit me.

Cedar Kehoe  
North Shore Resident  
808 425 0523 [cedarkehoe@gmail.com](mailto:cedarkehoe@gmail.com)

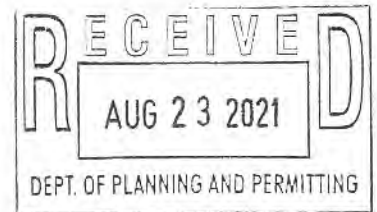
Testimony  
Attachment  
Accept Terms and Agreement 1

IP: 192.168.200.67

DATE: 8/23/21

TO: Members of the Planning Commission

SUBJECT: Proposed Amendments to Chapter 21 (Land Use Ordinance [LUO]), Revised Ordinances of Honolulu (ROH) 1990, as Amended, Relating to Transient Accommodations.



Dear Planning Commission Members,

We have major concerns regarding DPP's latest proposed amendments to Chapter 21 relating to Transient Accommodations. The core issue is that it proposes to eliminate TVUs in Waikiki resort district (Per Table 21-9.6(A) Waikiki Special District Permitted Uses), which have been permitted land use in Waikiki Resort district for decades. We find this elimination troubling and problematic. The resort district of Waikiki is where the legal TVU and B&B belongs, which is consistent with Waikiki special district's development plan. Any efforts to regulate STRs and reduce impacts on residential neighborhoods should be laser focused on addressing management of non-conforming use STRs in non-resort areas, and enforcement efforts on illegal STRs in residential districts. Properties within Resort Zones should not be impacted.

Please take the following points into consideration:

1. STRs should be allowed in the main tourist area of Waikiki. We understand that residential neighborhoods are at times overrun by STRs, and that should be curtailed or prohibited as it impacts the quality of a quiet, residential neighborhood populated by local citizens. However, Waikiki should encourage all sorts of tourists and tourist accommodations, to encourage tourist visits and dollars. STRs are perfectly attuned to longer-term visitors who find other options less appealing. We encourage the Board to funnel these tourists to Waikiki for these longer-term visits.
2. The focus should be on enforcing lawful management of STRs. We have operated a legal STR since its inception. Our STR is managed by a licensed property management company, we pay all GE and TAT fees, and all reservations meet minimum 30-day standards. Our marketing is transparent and clear about these parameters. We should be punished for following the law just because others do not? The focus should be on rooting out bad apples, not destroying the entire orchard.
3. This is unfair to property owners. We recently ended our long-term rental of our Waikiki condo and transitioned it to a STR to allow for our family to return to Hawai'i more frequently. This change was made in line with all current regulations. We spent thousands of dollars to ensure that our condo met all requirements. Now you are switching the rules. The rug has been pulled out from under us. This is totally unfair to property owners.
4. A thirty-day minimum rental is adequate. Requiring a 30-day minimum for STRs seems excessive, but reasonable. Those are the terms we agreed to when we transitioned our property to an STR. 180 days is ridiculous. If you want long-term visitors (30 days or longer), you need to allow them to have reasonable options. No normal human being is going to stay in a hotel for 180 days. Give people options, funnel them into the resort area of Waikiki, and make owners abide by the rules.

A handwritten signature in black ink, appearing to read "Neil Gowensmith".

Neil and Debbie Gowensmith  
Property owners

-----Original Message-----

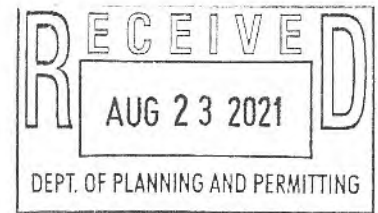
From: Cino and Priscilla Magallanes [<mailto:cinomagz@hotmail.com>]

Sent: Monday, August 23, 2021 9:51 AM

To: Mayor Rick Blangiardi <[mayor@honolulu.gov](mailto:mayor@honolulu.gov)>

Cc: Tsuneyoshi, Heidi <[htsuneyoshi@honolulu.gov](mailto:htsuneyoshi@honolulu.gov)>

Subject: DPP



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I am a retired school teacher with the DOE. I am living on a fixed income. My husband and I purchased our Kuilima property in the hopes to generate income to supplement our pensions. My husband has since passed so it is solely my income.

I adamantly oppose the \$5000 registration fee and \$2500 annual renewal fees. We should not be subjected to hotel reservation systems that would take away our ability to manage our own property. The 30% commission and other charges are unconstitutional, illegal and take away our rights as individual property owners.

We have all been struggling so please don't add to our stress!

Please remove these proposals as they are unfair to legal vacation rental owners. Please utilize your resources to investigate and penalize the thousands of illegal vacation rentals all over the island.

Mahalo for your support in this matter!

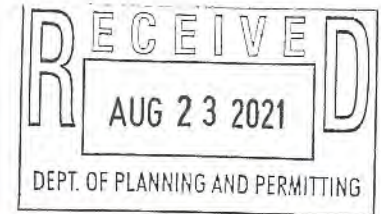
Priscilla Magallanes

808-221-5090

TA-111-255-3472-01

Sent from my iPhone

**From:** Barbara Fisher [mailto:bambufish@gmail.com]  
**Sent:** Monday, August 23, 2021 1:50 PM  
**To:** Takara, Gloria C  
**Subject:** DPP's proposal for amendments concerning TVUs



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Aloha Planning Commissioners,

I am a long-time owner and full-time resident at Kuilima and have worked in Haleiwa for many years. The DPP has outlined many reasons why tourism needs to be controlled and I assure you that no one who lives on this island could deny the impact of so many tourists on our roads and in our neighborhoods.

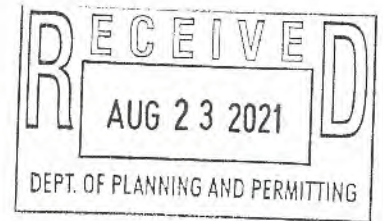
I was made aware of a coalition of owners (most of which do not live on the property) that pushed their agenda a little over a year ago to allow Kuilima to have legal short-term rentals. To be frank the majority of those people were already doing TVUs illegally. For many years we had had a balanced neighborhood. On the west side we have 200 units and 25 of them had NUC permits. Some of them never took advantage of those permits and did only long-term rentals or left their units empty for their own use on weekends or winter seasons. The flood gates have now been opened to everyone and the neighborhood is turning into a cheap motel with people coming and going with or without masks. Of course our costs as an association are going up trying to keep up with the maintenance of handling so many extra people coming and going.

I am writing today in support of the new amendments that are being proposed to help curb and finance the enforcement of illegal rentals as well as taxing the legal ones as if they are hotels. They are acting like hotels and using state resources ie roads etc. I believe it is only fair that they contribute to the costs. Otherwise much of that money goes out of state to the owners on the mainland. Of course there will be some who will try to go underground but it will be pretty obvious to those of us who live in the neighborhoods. I support anything that keeps these activities in check.

Thank you for considering my point of view when you make your decisions.

Sincerely,  
Barbara Fisher

**From:** Otis Adams [mailto:OTISUSMC@hotmail.com]  
**Sent:** Monday, August 23, 2021 2:22 PM  
**To:** Takara, Gloria C  
**Subject:** Oahu Draft Memo on Short-Term Rentals - Impact to Owners



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Good morning Mr. Takara

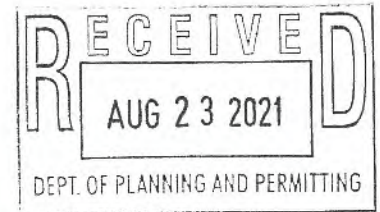
As a recent purchaser of a Condo in the area of North Shore, it was and still is my intention to remodel and rent this property for a few years until I Retire and decide to move into the condo myself. This new ordinance that is being considered will result in not helping anyone other than the large Hotel industry and members of city counsel.

This Ordinance will in fact hurt the individual home owners who are trying to make a reasonable return on a substantial investment, an investment that you will be rendering worthless. The end result of this Bill will cause a massive drop in home / condo values. Thus forcing the current owners to sell at a dramatic loss or force the homes / condos into foreclosure leaving banks stuck with properties they can not sell. The short term rental market does not have the stated effect of causing traffic and other problems on residential neighborhoods. I know this first hand because I live in a condo that offers short term rental and have seen none of the issues stated in the documents.

This ordinance will only increase bureaucracy and punish achievement. The individual owners of the homes and condos that are rented outside of the Hotel controlled zones are in most cases (All cases) people who have been fortunate enough to be able to put together a down payment on a piece of property in an effort to better themselves and or their future.

Sent from [Mail](#) for Windows

**From:** paul brooks [mailto:paustinbrooks@gmail.com]  
**Sent:** Monday, August 23, 2021 2:33 PM  
**To:** Takara, Gloria C  
**Subject:** Proposed Registration and Renewal fees for STR's



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- Aloha Mr. Takara,

Thank you for your service on the city planning board. I am writing you concerning the proposed changes for LEGAL STR's. I own three of these and have been paying the required higher commercial property taxes to be in a legal commercial hotel building as well as all the required short-term rental taxes for over a decade.

This proposal is asking for an additional \$5,000 registration and \$2,500 renewal fees on top of all the other taxes and fees we collect and remit to the city. In addition, this legislation forces us to go under an area Hotels reservation system. They will charge us up to 30% on top of that. This will force many of us to sell our properties and seems to be a big push by the hotel industry to destroy the legal STR's along with the illegal ones. These practices would take away our property rights and create an unfair advantage for the hotel industry.

Please remove these two parts from the proposed bill. They are unfair to us legal vacation rental owners and give an unfair advantage to the Hotel industry.

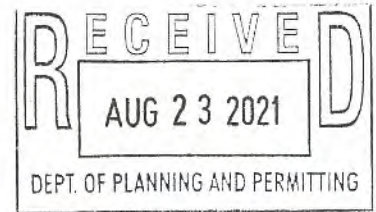
Paul Brooks

[paustinbrooks@gmail.com](mailto:paustinbrooks@gmail.com)

My TAT Tax ID: TA-100-613-3248-01 & TA-085-079-6544-01

- 1-858-336-9197

**From:** Dawn Yoshimura [[mailto:d\\_yoshimura@yahoo.com](mailto:d_yoshimura@yahoo.com)]  
**Sent:** Monday, August 23, 2021 4:06 PM  
**To:** [info@honoluludpp.org](mailto:info@honoluludpp.org)  
**Subject:** oral testimony on hearing on transient vacation units



CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

I am writing to urge the City and County to NOT pass more restrictive laws but to ENFORCE the laws and levy fines and shut down the ILLEGALLY operated units. We own and rent a unit in the Ilikai and follow all the laws and pay our taxes. We are tired of people who run it illegally and do not use professional management for the safety of tourists and pay their share of taxes. We also rent a unit outside the Waikiki area and follow those rules as well and rent 30 day minimum and pay our taxes. A casual search of the Executive Center on Bishop Street brought up over 20 units offering short term rentals on airbnb. How is this possible?

By taxing law abiding people, and creating more laws making it illegal is not the solution. Being able to rent out our properties is a crucial income for us as retired people living in the most expensive paradise.

If the issue is not enough revenue --then find ways to collect the revenue. If the issue is too many feet on the ground, then limit the amount of flights and cruise ships to the islands. If the issue is housing inventory, this is not the solution.

mahalo  
Dawn Yoshimura and Anders Fridlund  
Owner Ilikai 1820

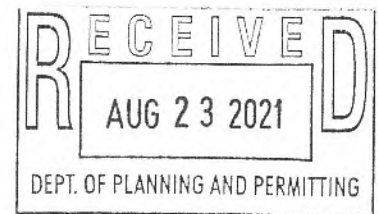
-----Original Message-----

From: Carrie Martell [mailto:martellcarrie@yahoo.com]

Sent: Monday, August 23, 2021 4:41 PM

To: Takara, Gloria C

Subject: Vacation rentals



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I'm asking that this department not punish those of us trying to make a living while at the same time employing numerous others people in our community. I pay my taxes every month. I'm very respectful to my neighbors and the neighborhood. My guest have private parking and NEVER take up space on the roads. We keep our property looking updated and clean. We are mindful with respect to recycling. We treat our guest with kindness. We are extremely mindful of cleanliness and sanitize regularly.

Please do not punish us by shutting us down or making it impossible to maintain our business.

Carrie Martell

Sent from my iPhone

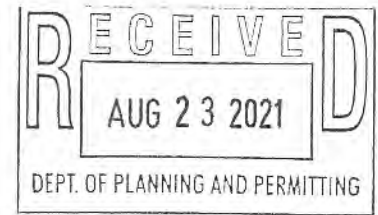
-----Original Message-----

From: Wendy Barnfield [mailto:wendybarnfield@icloud.com]

Sent: Monday, August 23, 2021 8:06 PM

To: Takara, Gloria C

Subject: STR Ordance Draft



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Dear Mr Takara

I have read most of the draft especially the portions pertaining to the Transient Accommodation Units . I must say there are some stiff increases , such as property taxes, registration fee for a certificate and the annual fee to maintain the certificate.

It smells like the hotel industry is behind this.

I understand fees and the need for them and of course ways to increase the income for the City but these fees mentioned like \$5,000 to secure a certificate is very steep.

I am not sure that requiring the zoning to be changed is necessary either. The goal again is to raise income and to match the TVU's at the condos to the hotel isn't balanced. Hotels charge upwards of 900-1200 a nite and a condo , one bedroom on average is \$160 a night. It feels like sour grapes to me and the hotels are annoyed that we exist.

Many of the requirements to obtain the certificate sounds like a major micromanaging sceem in the making , that will be difficult to manage.

Instead of focusing on those who are legal, why not put the efforts into getting the illegal TVU's shut down. Where is the enforcement?

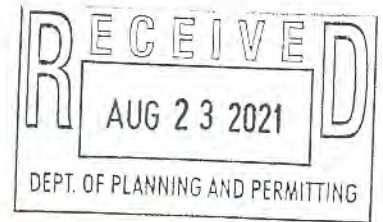
Instead of making it so difficult for those who are opertaing legally , go and make it so difficult for those who are illegal , that they eventually shut down.

This draft is punishment not a resolution and you are punishing the wrong people. We all have , the entire state, has suffered since 2019 due to Covid and everyone whether they are involved in a legal TVU or the hotels for that matter have barely gotten out of the red , and in just a few months this draft is talking about asking for more money from those who shouldn't be burdened right now.

There has to be some sort of compromise, this is a vacation destination and it will always be like this. This is a very expensive place to live and the residents locals etc who are legal in terms of this draft should not be penalized.

Sincerely,  
Wendy Barnfield

**From:** Olivia Sadeler [mailto:oliviadpt@gmail.com]  
**Sent:** Monday, August 23, 2021 9:20 PM  
**To:** info@honoluluodpp.org; Takara, Gloria C  
**Subject:** NO on New proposed DPP bill re: STR & NUC elimination in resort zone



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Aloha Members of the DPP Commission,

The latest proposed amendments to Chapter 21 relating to Transient Accommodations are **bad for local legally operating small businesses**. The problem as I understand, is that it proposes to eliminate TVUs in Waikiki Resort Zones (Per Table 21-9.6(A) Waikiki Special District Permitted Uses), which have been permitted land use in Waikiki Resort district for decades! I find this elimination would be devastating to small business and local families operating under the rules for years. We are just beginning to make up for COVID shut down losses.

The Resort district of Waikiki is where the legal TVU and B&B belongs! Efforts to regulate STRs and reduce impacts on residential neighborhoods should be laser focused on addressing non-conforming use STRs in **Non-resort areas, and enforcement efforts on Illegal STRs in Residential and Apartment districts!**

“Amendments to the Master Use Table would eliminate B&Bs and TVUs as a permitted use in every land use category except for certain areas in the **A-1 and A-2 apartment districts** located in or near existing resorts.”

**This does not align with the intent of the new bill which should be to preserve neighborhoods and provide more rentals for long term residents!  
Many families are being priced out of paradise.**

I know many owners of legal STRs in the resort zone and those with NUC's in resort zones who are long time residents who invested in these properties and depend on the STR economy to make a living and remain here on Oahu. We run our businesses legally and employ other hardworking local residents and families as well. Our house cleaners are 2 local families one from Waianae and the other from Kaneohe.

We partnered with another local family investing our hard earned savings into these 2 currently legal short term rental properties in order to help pay for the high cost of living to raise our 2 families here.

Buy purchasing 2 units in resort zones even at a premium price, we have fortunately been able to make a decent return and begin to recover earlier covid shut down losses.

It's necessary that legal local small businesses like ours be allowed to participate in the benefits of tourism when handled legally & legitimately paying all the necessary taxes and fees. Please do not try to take this right away by eliminating the very reason we invested in legal STR businesses in the resort zone.

With Aloha,  
Sadeler Ohana

Concerned residents

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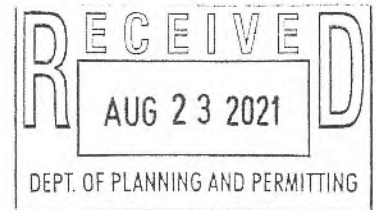
-----Original Message-----

From: Milanesinsurance [<mailto:milanesinsurance@yahoo.com>]

Sent: Monday, August 23, 2021 8:00 PM

To: Department of Planning and Permitting <[dpp@honolulu.gov](mailto:dpp@honolulu.gov)>

Subject: Re: Automatic reply: Meeting on str on Spet 1



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Does this change apply to the Ilikai which is a condo hotel and not an actual hotel ? I have allot invested and this will affect us very much !

Sent from my iPhone

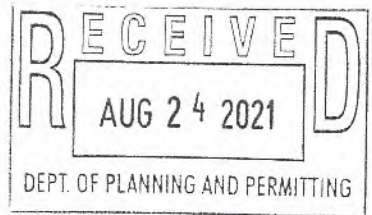
> On Aug 23, 2021, at 7:46 PM, Department of Planning and Permitting <[dpp@honolulu.gov](mailto:dpp@honolulu.gov)> wrote:

>

> This is an automatic response that the City & County of Honolulu's Department of Planning and Permitting, [dpp@honolulu.gov](mailto:dpp@honolulu.gov)<<mailto:dpp@honolulu.gov>>, is in receipt of your email. For inquiries, a response will be forthcoming as soon as staff is able to provide you with the information you seek.

> Aloha, Department of Planning and Permitting, City and County of Honolulu

**From:** Swoosh Basketball (Coach Mike) [mailto:swooshbasketball@gmail.com]  
**Sent:** Tuesday, August 24, 2021 9:40 AM  
**To:** Takara, Gloria C  
**Subject:** To whom it may confirm



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My family stayed in Kalua during the month of July, 2021. We enjoyed the simple life of the beach 300 feet from our doorstep. We had very little impact on traffic since we just stayed in walking distance most of the time. We contributed to locally owned vendors and businesses by spending over five thousand dollars on food, souvenirs, tours and ect. Please do not let Big business (Marriotts, Hyatt, Hilton and ect.) dictate to you. Please take care of your locals.

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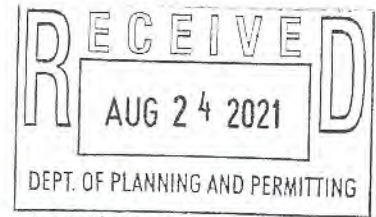
Mike Alexander  
Swoosh Basketball  
(949) 424-3141  
PO Box 2686, Orcutt, Ca. 93457  
[swooshbasketball@gmail.com](mailto:swooshbasketball@gmail.com)  
[www.swooshbasketball.org](http://www.swooshbasketball.org)  
[www.facebook.com/swooshbasketball](https://www.facebook.com/swooshbasketball)  
[www.twitter.com/swooshbballorg](https://www.twitter.com/swooshbballorg)  
Instagram @swooshbasketballorg

**From:** Kaohinani Galdeira [<mailto:ohi@elitepacific.com>]

**Sent:** Tuesday, August 24, 2021 11:03 AM

**To:** [info@honoluluudpp.org](mailto:info@honoluluudpp.org)

**Subject:** Opposition to Proposed Amendments to Chapter 21 (Land Use Ordinance [LUO]), Revised Ordinances of Honolulu (ROH) 1990, as Amended, Relating to Transient Accommodations



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To whom it may concern,

The proposed bill is wide ranging and has a serious and dramatic effect on the taxation and management of short term rentals throughout the city and county of Honolulu.

First, I would like to be clear in that I fully support enforcement actions against illegal Short-Term Rental operators as it currently stands. We do not want short term rentals in our neighborhoods, but we also do not want the negative impact this will cause on taxes for our long term rentals. What we need is for the DPP to properly enforce the 30 day rule and it seems the DPP has not and does not want to take the necessary steps to enforce it.

In this new proposal, I specifically oppose the section of this bill that proposes a change to the definition of a short term vacation rental from 30 days to 180 days. Long term rentals should continue to be defined as stays of 30 days or longer. Under this clause, we would not be able to allow month to month leases for our long term inventory. We also have situations where moderate leasing is needed if a client is moving from out of state or sells their property and needs temporary housing for a couple of months as construction finishes on their new property. These are just a few examples of why short term rentals should continue to be defined as stays less than 30 days.

Thank you for your consideration.

Mahalo,  
Ohi



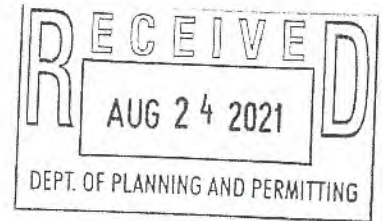
Ohi Galdeira  
VR Operations Manager, Elite Pacific Properties  
[808.589.8224](tel:808.589.8224) | [ohi@elitepacific.com](mailto:ohi@elitepacific.com)  
[www.evrhi.com](http://www.evrhi.com)



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**From:** Riley Bloom [<mailto:riley.bloom@elitepacific.com>]  
**Sent:** Tuesday, August 24, 2021 11:10 AM  
**To:** [info@honoluludpp.org](mailto:info@honoluludpp.org)  
**Subject:** Concerns Regarding Bill 89



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Aloha,

We fully support enforcement actions against illegal Short-Term Rental operators. There is no need to change the definition from 30 days to 180 days. We just need to properly enforce the 30 day rule.

As licensed real estate professionals, we frequently encounter people on Oahu who need rentals of less than 180 days. These uses include:

- a. Families from out of State that are taking care of loved ones
- b. People moving to Oahu and looking to buy a home
- c. Families who are waiting for their new home to complete construction
- d. Government contract workers
- e. Traveling nurses
- f. Military PCS while looking for a home to buy
- g. Home Sellers who need to rent until they find a new property
- h. Film and TV crews while on a shoot

It is overly broad to include all rentals 30 days or greater as Short-Term Rentals and will harm many local property owners as well as the Tenants that stay in their homes.

May I please schedule a phone call to further express concerns?

Mahalo,



**Riley Bloom**, RS-82422  
Property Manager, Corcoran Pacific Properties  
808.349.1118 [riley.bloom@elitepacific.com](mailto:riley.bloom@elitepacific.com) [www.elitepacific.com](http://www.elitepacific.com)

**CORCORAN**

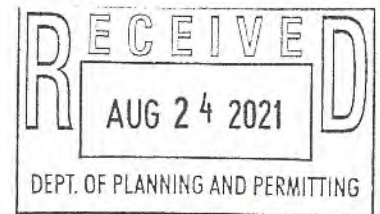
PACIFIC PROPERTIES



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**From:** Iris Kahaulelio [mailto:iriskahaulelio@gmail.com]  
**Sent:** Tuesday, August 24, 2021 1:55 PM  
**To:** Takara, Gloria C  
**Subject:** OPPOSITION TO PROPOSED AMENDMENTS TO CHAPTER 21



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Dear Chairman Brian Lee and Members of the Planning Commission,

I am writing to oppose the proposed amendments to Chapter 21, which will increase the rental period for TVUs or B&Bs from less than 30 days to less than 180 days.

My husband works for the City & County of Honolulu and I am a public high school science teacher. We were fortunate to be able to purchase an investment property to supplement our income so that we may continue living on Oahu with our five children.

I support regulation of short term rentals, but the increased minimum stay would make it difficult to keep our rental as potential guests aren't afforded a 180 day vacation. Most guests are able to vacation for 2 weeks at most.

During the pandemic, many owners had to sell their properties, which were scooped up by mainland investors. We depend on rental income to balance the high cost of living here on Oahu.

Our ohana urges you to vote against increasing the rental period for TVUs or B&Bs from less than 30 days to less than 180 days.

Mahalo,  
Iris Kahaulelio

--  
**IRIS KAHAULELIO**  
**BIOLOGY, FORENSIC SCIENCE**  
**SURF CLUB COACH**  
**KAHUKU HIGH SCHOOL**  
**56-490 KAMEHAMEHA HWY**  
**KAHUKU, HI 96731**  
**808-305-7300**  
**808-293-8960 FAX**  
**[iriskahaulelio@gmail.com](mailto:iriskahaulelio@gmail.com)**

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e-mail in error, please contact the sender by replying to this e-mail and delete this e-mail and any attachments from all computers without reading or saving the same in any manner whatsoever.

**From:** Iris Kahaulelio [<mailto:iriskahaulelio@gmail.com>]  
**Sent:** Tuesday, August 24, 2021 2:02 PM  
**To:** [info@honoluludpp.org](mailto:info@honoluludpp.org)  
**Subject:** OPPOSITION TO PROPOSED AMENDMENTS TO CHAPTER 21

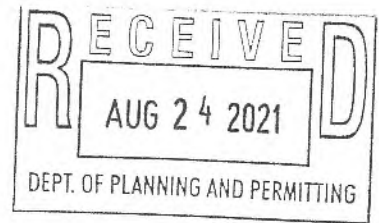
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Who is able to vacation for 180 days?

--

IRIS KAHAULELIO  
BIOLOGY, FORENSIC SCIENCE  
SURF CLUB COACH  
KAHUKU HIGH SCHOOL  
56-490 KAMEHAMEHA HWY  
KAHUKU, HI 96731  
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808-293-8960 FAX  
[iriskahaulelio@gmail.com](mailto:iriskahaulelio@gmail.com)

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-----Original Message-----

From: Elaine Davis [<mailto:elainemaedavis@gmail.com>]

Sent: Tuesday, August 24, 2021 2:14 PM

To: [info@honoluludpp.org](mailto:info@honoluludpp.org)

Subject: Legal bnb in condo hotel

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To Whom It May Concern:

My husband and I are the owners of a bnb within a condo-hotel. We completely renovated the unit and manage it on our own. It is COMPLETELY different and more updated than the other units in the building. It absolutely doesn't make sense to enforce making us put it in the hotel pool. We pay taxes and operate in the resort zone. STOP MESSING WITH OUR INCOME. We aren't a corporation; we are individuals playing by the rules. These new proposed rules are not beneficial to the community, only to the hotels. They are unethical and unfair. Please do the right thing and stop degrading those who are playing by the rules of Bill 89.

Sincerely,  
Elaine Andrews

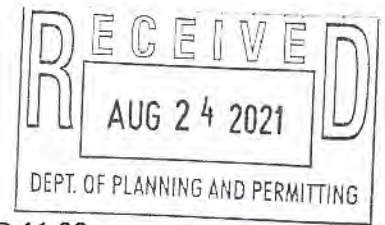
Sent from my iPhone

**From:** DL TN [<mailto:dltn19@outlook.com>]

**Sent:** Tuesday, August 24, 2021 2:27 PM

**To:** [info@honoluludpp.org](mailto:info@honoluludpp.org)

**Subject:** Written Testimony for Vacation Rental Community Meeting on Sept. 1st @ 11:30



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Aloha,

I am born and raised in Hawai'i all my life. I am FOR vacation rental in the community. I know many homeowners who are local residents (born and raised) that use vacation rentals to help supplement their income as well as allow the cost for families to KEEP family property: a place for gathering; and a home base for family who moved away and want to come home to visit. The living cost in Hawai'i ties with New York as the most expensive States to live. Vacation rental helps born and raised residents, not transplanted residents, live and raise their families in their homeland by helping to supplement their income. Kualoa Ranch on the windward side of Oahu has been a ranch for more than 150 years. The land has been in family hands for 8 generations and still is! The solution to keeping Kualoa Ranch as family land.... financial income diversity. Financially diversifying into being a venue location saved the ranch from being sold. It's still a ranch and more. Local generational families should have the same opportunity to keep their family land by supplementing the income required in one of the most expensive places to live. Hawai'i should not be a place that only transplant residents can afford to live by restricting local born residents financial options to keep their home and land...this is wrong!

\* VACATION RENTAL HELP LOCAL FAMILIES KEEP THEIR HOMES ESPECIALLY GENERATIONAL HOME PROPERTIES. Vacation rental provide generational families with income to maintain the family property. Also, allow when families want to gather for family gatherings and/or when family members who have moved to the mainland have a place to stay when 'coming home' to visit. Families can block out family activities scheduled dates to have the property open for family use. When not in use for family activities then used for vacation rental to provide income and KEEP FAMILY PROPERTY!

Vacation rental allows family members who have moved away to come home to visit family especially visiting parents or grandparents as well as visit for longer period of time than a few days because of the high cost to pay for hotel rooms. During this time, the unit would not be available as a vacation rental so family members can stay and visit. Many times, this would remove units during peak season because family comes to visit during the same time period. They are staying close to family on family property and the cost of having to stay at a hotel as a family is insane and not possible for most families unless you are wealthy. Most local families (family members moved away to live on the mainland for this very reason of not able to afford to live in Hawai'i) are not wealthy; in fact, they are far from being wealthy to pay for hotel accommodations. Having a family place to stay makes it possible to come home and visit. Allow the children who are now being raised in the mainland to come home and learn about their roots, gain wonderful memories with their kupunas, aunt, uncles and cousins in Hawai'i, and learn to love their homeland – Hawai'i. This is not done by staying in a hotel in Waikiki!

\* SUPPLEMENT INCOME FOR LOCAL FAMILIES WITH CHILDREN. I personally know a local family (born and raised in Hawai'i) who have done vacation rental with part of their home which allows the mother to work part-time as a school teacher. They have 5 children and this benefits their family needs! They

are trying to not live on welfare assistance but with hard work and know how to support their family and provide a future for their children.

\* **SUPPLEMENT INCOME FOR KUPUNAS.** Again, I know of kupunas on a fixed income that have used vacation rental to help supplement their income and help them have a basic standard of living in a State that is very expensive for retirees to live. Again, these kupunas are not transplants but born and raised in Hawai'i. In addition, some kupunas enjoy it because they can share their aloha with those visiting. Retired and are right there on property for most of the day. Tourist who stay at a vacation rental want more than the Waikiki commercial experience. They want to feel what Hawai'i is about which cannot be experienced in Waikiki. We should be sharing Aloha not hording it. Not deny others that Aloha that made resident transplants and tourist want to stay and visit Hawai'i. Kupunas a very good at showing and sharing Aloha; at the same time, will put one in their place when needed.

\* **SUPPLEMENT INCOME FOR HOMEOWNERS THAT ARE STRUGGLING.** I know of a local family the dad has a disability. He has an illness and in about 5 years will not be able to work anymore. They did vacation rental as a way to help them pay off their mortgage quicker. Their goal was to try and pay off their mortgage before he no longer can work. That is the only way they would be able to financially survive after he no longer is able to work because of his illness. They have three children and finding a way to support their family without having to go on State welfare.

\* **PAST EXPERIENCE WITH BAD RENTAL TENANTS.** All landlords have at least one horror story of a terrible tenant. If you have a good tenant then consider yourself lucky. Some landlords don't want to rent anymore because having a bad tenant is an absolute nightmare from property being destroyed to non-payment of rent for months on end to time consuming legal court system to evict. Most homeowner landlords in Hawai'i are not rich and the rental income supplements their income to stay afloat. For example, I know of a widowed-retired-kupuna who rented a studio in the back of her house after her husband passed away. She lives by alone. This tenant stopped paying rent, would yell at her and was very disrespectful to the point she did not feel safe in her own home. She started staying with her children and grandchildren because of this horrible tenant. She tried to get him out but because of the mandated moratorium cannot. He is still there and she still does not sleep in her own house...in her own bed...in her own property. She doesn't want to rent anymore but she needs the income to pay the mortgage for her house. Vacation rental will allow her to obtain income to pay the mortgage and not have to worry about a permanent tenant. They will come and go and leave. Many vacation rentals policy is to pay in advance and not have to worry about not getting rent or trying to collect rent. VERY VERY stressful and traumatizing especially for an elderly widowed women living by herself.

\* **MAINTAINING AND UPKEEP OF PROPERTY.** Tenants can be very hard and destructive to property. They don't own the property and have no inclination to maintain or care for the property. When a tenant leaves, the home and property is in shambles. Landlord now has to fix, repair, and, at times, remove tenant possessions. This usually cost more than the rental deposit. Vacation rental provides the ability for landlords to maintain their property on a regular basis. Tenants can deny landlord access to the property if they choose to and only through the court system (with a lot of headache and cost) to gain access to their own property. Normally, to attract bookings homeowners try to maintain and keep on the house and property to show. As a result, the house remains in good condition and not rundown and in major need of repairs. There are property owners who don't want long term renters because they don't want their property to be destroyed and run down.

I am aware of a family that rented a 2 bedroom place. The tenant lived there for 3 years. When they left, all the internal doorways had something broken, the house was not cleaned and their belongings still remained, damage to the walls and floor, and appliances filthy...basic minimal care neglected. The cost to remove belongs, repair, and fix was more than the deposit as well as landlord lost another month of income because of the time required to put the place back in good condition. This landlord might be considered a mean landlord because of the "cannot do's" in the rental lease contract because of past tenant behaviors. It is very hard to be a 'nice' landlord when you had and/or have bad tenants.

\* FAMILY VACATIONS. Hawai'i is about Ohana. Most families vacationing would not be able to afford the number of hotels rooms required to stay. Also, family vacations are less disruptive in communities (late night parties or alcohol binge drinking parties). Most vacation families will go to bed early because the next day is rise early for a full day of family activities. Vacation rentals allow multiple families to plan a Hawai'i vacation together and stay together in a home. A wonderful and great opportunity for multiple generation to be together and reunite with one another. The odds are very slim that families would be able to stay in rooms right next to each other in a hotel or even be able to all stay in the same hotel together. Vacation rental allows families to have a place to gather and to make it affordable for everyone to be together and enjoy. For me, when I travel, I prefer staying in a vacation rental instead of a hotel. I feel more comfortable and it helps with the cost. We can make meals and buy the groceries at a local store. We eat out but it doesn't break the bank. Also, the outrageous hotel bill can be used instead on family activities. These family activities benefit local businesses and they are WHOLESOME activities. As a Hawai'i resident, I like tourists that are vacationing as family because Hawai'i is about Ohana.

\* LOCAL RESIDENTS USE VACATION RENTAL FOR STAY-AT-HOME VACATIONS AND FAMILY GATHERINGS. Not all locals want to do a stay-at-home vacation or weekend gateway in Waikiki. I know of multiple local families that use vacation rentals as stay-at-home vacation or get away weekend or for a wedding or family reunion. I am aware of a vacation rental in my community and half of the time local residents are using that vacation rental. How do I know this? The cars are not rental cars and they look and act like locals. LOCAL RESIDENTS BENEFIT AND USE VACATION RENTALS AS WELL.

\* HOMEOWNERS SHOULD HAVE FINANCIAL OPTIONS TO KEEP THEIR HOMES: As a homeowner, if need be, for financial reasons I should be able to decide on having a vacation rental. This is something I have no interest in but would like the option available to me. I don't know what the future holds but if it came to losing my home, I want the ability to supplement my income and keep my home should there be a need to do so! I don't want to move in with my adult children or my adult children have to move in with me to keep my home. That shouldn't be the only available options for me! Moving to the mainland because I can't afford my home anymore is not a viable option to consider at all. I am born and raised in Hawai'i and this my indigenous homeland!! Further, we have family property and we want that property to remain in the family and be available for Ohana to use for gatherings as well as come home when they visit. Renting the house will not allow family a place to come and stay when they visit or use for family gatherings. Vacation rental will allow that ability. We are not at the stage and am grateful that our parents are alive. However, at some point in the future, this will happen and we want to be able to KEEP our family property and not be forced to sale family land! Generational memories have been cultivated at grandma's and grandpa's house and should be there for the same opportunity for future generations.

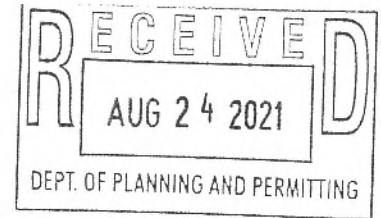
There are many reasons to not have vacation rentals and there are many good reasons to have vacation rentals. The voice that is normally heard is the one that is against vacation rental. The voice for

vacations rental is normally not heard because many have to do it illegally and don't want to bring attention to themselves. They are FORCED to do it illegally as way to supplement their income to live where they have been born and raised. This is not bad behavior and should not be considered illegal as way to support oneself and/or family. There needs to be a balance somehow or as close as possible. Neither side will ever be completely satisfied or happy. We have to live with each other and take and give here and there. It isn't my way or your way. This idea of my way or your way is a very western mainland concept. Local families are use to being bothered all the time by other family needs and helping. It is part of being in a family to be inconvenienced! Having outsiders is being inconvenient. Having noise in one's neighborhood is being inconvenient. Having more people around and disrupting one's sleep is being inconvenient. Having neighbors' dogs bark all day and night is inconvenient. Having neighbors' baby cry in the middle of the night is inconvenient. Having firework's go off is inconvenient. Having neighbors have parties in their yard making noise is inconvenient.

I was raised by my grandparents to be kind, to be loving and to help my family, my neighbors, my community, and to strangers...this is how we should be. This is the essence of Aloha. There is bad in the world but a lot of good too. We will be inconvenienced all the time and that is part of being in a family, in a neighborhood, in a community and in society. What makes Hawai'i an unique place is our location but, more so, we as a people. I have traveled places and Hawai'i is the only place that I know that tourists don't want to leave not because of the sun and surf but because of how Hawai'i makes them feel. I know of locals including myself that travel but always look forward to coming home (had fun but time to go home) not because of the sun and surf but because of how Hawai'i makes me feel. Hawai'i is special! Let's not allow outside influences destroy this uniqueness that has always been a core of Hawai'i. We are open to those who want to come and live here but come, learn and adapt to Hawai'i's way of life not the other way around. I don't mind sharing and respect but share and respect back too. The aina should provide for ALL of us not for only a select group of tourists or for only a few that can financially afford to live here via government "sanctioned approved" ways.

Mahalo for your time!

**From:** David Stewart [<mailto:stewart718@gmail.com>]  
**Sent:** Tuesday, August 24, 2021 2:59 PM  
**To:** [info@honoluludpp.org](mailto:info@honoluludpp.org)  
**Subject:** David Stewart 480 718 9907

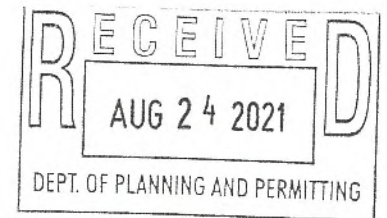


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I oppose changes to the short term rental program within the Waikiki Resort zone and would like to discuss

David Stewart

**From:** Cannie Chum [<mailto:hawaiiichum@gmail.com>]  
**Sent:** Tuesday, August 24, 2021 3:00 PM  
**To:** [info@honoluludpp.org](mailto:info@honoluludpp.org)  
**Subject:** Register for the Webex



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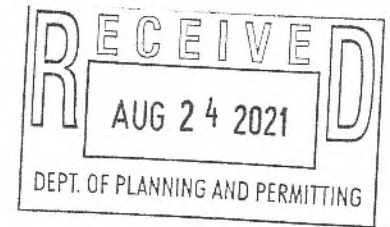
My name is Cannie Chum.

I would recommend to keep short term rental and 30 days rental because this is what a lot of people need now.

I also would like to register the Webex.

Thanks

**From:** Adam Zarro [<mailto:adamzarro@gmail.com>]  
**Sent:** Tuesday, August 24, 2021 3:02 PM  
**To:** [info@honoluludpp.org](mailto:info@honoluludpp.org)  
**Subject:** nuff already



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You selfish people will never learn. It is overly broad to include all rentals 30 days or greater as Short-Term Rentals and doing so will harm many local property owners as well as the Tenants that stay in their homes.

Please reconsider doing nothing like you usually do.

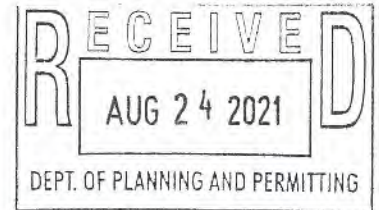
Mahalo Nui Loa,



**Adam Zarro**  
**RS-80693**  
**PHONE** 808.600.9123  
**EMAIL** [Adam.Zarro@gmail.com](mailto:Adam.Zarro@gmail.com)  
**WEB** [exprealty.com](http://exprealty.com)



**From:** Stacy Lyn Dees [<mailto:stacylyndees@gmail.com>]  
**Sent:** Tuesday, August 24, 2021 3:09 PM  
**To:** [info@honoluluodpp.org](mailto:info@honoluluodpp.org)  
**Subject:** 30 day short rental definition testimony



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To whom it may concern:

As a licensed real estate agent, I am concerned about and oppose the city's plan to change the short-term rental definition from anything under 30 days to 180 days.

1. I fully support enforcement actions against illegal Short-Term Rental operators. There is no need to change the definition from 30 days to 180 days. We just need to properly enforce the 30 day rule.

2. As a licensed real estate professionals, I frequently encounter people on Oahu who need rentals of less than 180 days. These uses include:

- Families from out of State that are taking care of loved ones
- People moving to Oahu and looking to buy a home
- Families who are waiting for their new home to complete construction
- Government contract workers
- Traveling nurses
- Military PCS while looking for a home to buy
- Home Sellers who need to rent until they find a new property
- Film and TV crews while on a shoot

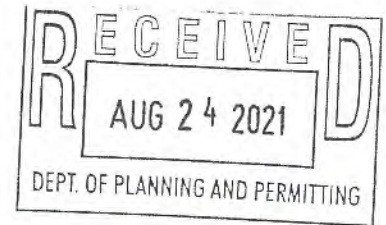
3. It is overly broad to include all rentals 30 days or greater as Short-Term Rentals and will harm many local property owners as well as the Tenants that stay in their homes.

Thank you,

Stacy Lyn Dees, RS-82700  
REALTOR(R)-Associate

Corcoran Pacific Properties  
808-772-2286

**From:** Daniel Loli Batallani [<mailto:Daniel@bhhshawaii.com>]  
**Sent:** Tuesday, August 24, 2021 3:11 PM  
**To:** 'info@honoluludpp.org' <[info@honoluludpp.org](mailto:info@honoluludpp.org)>  
**Subject:** Short term rental definition change



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To whom this may concern,

My name is Daniel Loli and I am a realtor licensed with Berkshire Hathaway HomeServices. Additionally I am a Marine Corps Veteran and super involved Oahu resident. When I heard that there is a bill to change the definition of Short Term Rentals from 30 days to 180 days I was baffled by the lack of thought to Hawaii residents and community members who help Hawaii thrive. Oahu is a transient island not just because of tourist visitors but also by community members who come to support our community and its members.

- As a Marine Corps Veteran who was stationed in Hawaii, I always saw fellow Marines renting homes for 1-6 months while they shopped for a home to buy. I also saw those same veterans rent homes for 1-6 months when they came back from deployment knowing they had gotten orders to PCS to another island.
- During Covid and even before Covid I regularly met amazing travel nurses who moved to Hawaii for various time periods all under 6 months to support our hospitals and Kapuna.
- UH students always come here and some many come only for a semester.
- International students also move to Hawaii to learn English, most move here for under 6 months.
- Construction workers and DOD employees also move to Hawaii to work for periods varying from 1-6 months and these folks also need a place to call home.

There are countless reasons why changing this definitions is a bad idea right now but more importantly, making this change will not benefit our community in the future; In fact, it will hinder us from evolving to this changing post covid environment.

My contact information is:

Name: Daniel Loli Batallani  
Phone: 808-783-5497  
Address: 2333 Kapiolani Blvd #1602, Honolulu 96826 HI  
Email: [daniel@bhhshawaii.com](mailto:daniel@bhhshawaii.com)

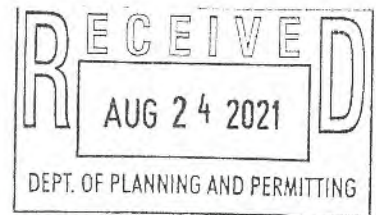
Very respectfully,

  
**BERKSHIRE  
HATHAWAY**  
HomeServices  
Hawai'i Realty



**Daniel Loli Batallani**

Realtor - Associate  
Berkshire Hathaway HomeServices  
Hawai'i Realty | RS-81949  
Cell: 808.783.5497 Call or Text  
[www.bhhs-hawaii.com](http://www.bhhs-hawaii.com)



**From:** Camille Naluai-Rios [<mailto:camillenaluaiorealtor@gmail.com>]

**Sent:** Tuesday, August 24, 2021 3:39 PM

**To:** [info@honoluluodpp.org](mailto:info@honoluluodpp.org)

**Subject:** RE: Proposed change to make any rental under 180 days a "Short-Term Rental or Transient Vacation Unit".

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Aloha

I'd like to register to be at the webex meeting to discuss this change.  
My information is below:

Removing month to month tenancy or 30 day rentals would be detrimental to the people who live and work in Honolulu. These rentals help families from outer islands be close to loved ones who need treatment at our hospitals. On more than one occasion I've housed families with a sick child, a mother who was having a difficult pregnancy and a woman fleeing an abusive relationship.

Thirty day rentals are frequently used by temporary nurses and doctors.

Month to month tenancy allows military service members and their families time to find long term housing.

It allows construction crews working on any number of projects on island a place to lay their head near the job sites.

Furthermore, long term tenants may sometimes need more time then a one year lease allows and may want to continue on as tenants under a month to month tenancy.



**Camille Naluai-Rios**

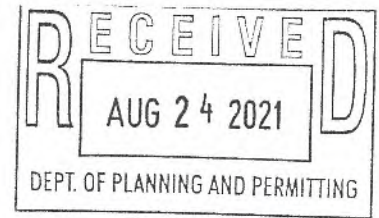
REALTOR® | LIC# RB22416

(808) 398-4860

[www.NaluaiRealty.com](http://www.NaluaiRealty.com)

**Faith Naluai Realty**

**From:** Backpackers Hawaii [mailto:info@backpackershawaii.com]  
**Sent:** Tuesday, August 24, 2021 3:52 PM  
**To:** Takara, Gloria C  
**Subject:** TVU changes



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Aloha Commission,

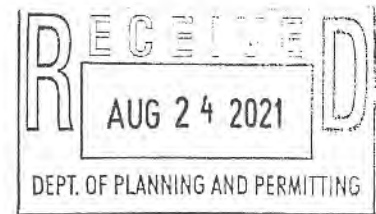
My name is SharLyn Foo. My family is one of the original NCU holders from more than 30 years. We have strictly budget accommodation.

We pay mortgage, TAT, GE, Residential A. Property tax, full commercial insurance, and certificate fees 2 years in advance.

Changing our property tax rate to hotel rate with no hotel rights would be egregious and unfair. I cannot generate more income with restaurants or retail shops.

This is my sole family income. Legal NCU holders all these years should not bear the burden of funding for enforcement. But should be grandfathered for doing right for decades.

Much ,Mahalo



-----Original Message-----

From: Robert R. Ellison [<mailto:3836543@gmail.com>]

Sent: Tuesday, August 24, 2021 11:59 PM

To: [info@honoluludpp.org](mailto:info@honoluludpp.org)

Subject: WRITTEN TESTIMONY for PUBLIC HEARING ON AMENDMENTS TO TRANSIENT VACATION UNIT RULES - SEPTEMBER 1st

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Dear DPP

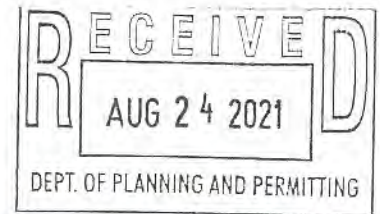
1. LEGAL short term rentals have almost no perceptible impact on the "character and fabric of our residential neighborhoods." Nor do they perceptibly increase the price of housing for residents." How could they, when there are less 800 on the entire island, and the vast majority of them are in Waikiki and other resort areas? For comparison, the Hilton Hawaiian Village has more than four times the number of rooms as there are legal TVU's and B&B's on Oahu.
2. If short term rentals are such a problem, why is the DPP proposing that more B&B licenses be issued? Where is the logic in that? If there are "too many tourists," there should be a moratorium placed on the development of any further tourist accommodations - hotels, resorts, time shares, and B&B's. There is already a moratorium on new TVU's.
3. Classifying Transient Vacation Units as "hotel and resort" is grossly unfair since TVU's are not high impact businesses like hotels and resorts, and more importantly they do not have revenue streams other than rent. If TVU's are classified as "hotel and resort," they should be allowed to engage in the same commercial activities as hotels and resorts, including retail business such as convenience stores, food and beverage sales including the ability to obtain liquor licenses, renting beach accessories and water sports equipment to both guests and non-guests, etc.
4. If TVU's are the same as hotels and resorts, why were TVU forced to close completely for six months in 2020, while hotels and resorts had the choice to stay open? This was in spite of the fact that TVU's are a far safer environment to be in during a pandemic, with far better social distancing capabilities.
5. Classifying TVU as "hotel and resort" will further penalize them versus illegal operators who do not pay TAT and in many cases do not pay GET.
6. Classifying all rentals less than 180 days as "short term" is ill conceived and will wreak havoc on a lot of unintended victims of this policy. For example, those who need places to stay between longer leases, those temporarily vacating their homes during renovations, those who have just moved to Hawaii and are looking for homes to buy or lease long term, those who are moving away from Hawaii and whose leases have expired or homes have sold, but still have more than 30 days of employment or studies on-island. Particularly hard hit will be members of the military whose leases have expired but they still have more than 30 days on-island before moving to their next duty stations.

7. If existing laws were simply enforced, the problem of illegal vacation rentals would go away. How hard could that be, now that Airbnb and VRBO have agreements with the C&C of Honolulu that they will require license information on their Oahu listings?

Respectfully,

Bob Ellison

**From:** Julianna Garris [<mailto:julie@garrishawaii.com>]  
**Sent:** Tuesday, August 24, 2021 10:47 PM  
**To:** [info@honoluluodpp.org](mailto:info@honoluluodpp.org)  
**Subject:** "Short-Term Rental or Transient Vacation Unit".



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Honolulu DPP,

I am completely against changing the definition from 30 days to 180 days. We already struggle to find temporary housing for clients needing shorter term housing with different situations. I have had personal experiences that were caused by DPP and C&C Utility issues.

- 1) There was a water main break on Poipu Drive last year during COVID. My clients woke up to a flood of water blowing their front door open and pouring through their home. Thankfully that same day, I was able to find them a month-to-month short term rental while the C&C figured out the situation, made the repairs to the street and my client's home. It was a devastating situation to this couple who was displaced for an undermined period of time.
- 2) Lets not forget the Aina Haina flood! I had to help some families find homes to stay in after their personal homes were devastated.
- 3) My property roof leaked in January's storm and destroyed my flooring, drywall, and other interior finishes. We hired an architect to assess the structure who determined it needed to not just be fixed but replaced. The boards were rotted and there would have to be structural modifications to prevent any future issues. We were given a timeline from the contractor and applied for the permit quickly after the damage. Nearly a month and DPP still had not inputted the application. I called several times, and no one would return my call. I reached out to the mayor's office. It took DPP over a month just to input the application. Then the routing process took another few weeks. Even after departments signed off, it still took additional weeks to get a fee. After paying the fee, the issuance of the permit was unreasonably long. In Summary ----- for a roof replacement, it took over 4 months just to get a permit! We've had to stay in a month-to-month short term rental and the stay is longer than anticipated due to the delays at DPP.
- 4) I have new clients at times that relocate from the mainland with children and pets, who need month to month housing while we find a longer-term rental or alternate purchase.

Changing the definition from 30 days to 180 days make no sense. It would only result in adding more housing hardship to people's difficult situations where they are trying to manage around tragedies, housing delays or relocations, all which are stressful enough.

I believe one reason DPP is attempting to make this change is to increase revenue. DPP already loses 10's of thousands of dollars with their inefficiency in running the permitting department. The permitting process is HORRIBLE and has been for years. It is only getting worse. The planning commission needs to turn their attention to fixing their own issues and improving public relations rather than trying to implement changes that ultimately make life harder for the people of Hawaii.

If you are concerned about illegal short-term rentals, then provide better enforcement. Make it easier for neighboring properties to provide information to you about illegal rental activity; a hot-line or anonymous reporting link.

Thank you,

**Julianna Garris**, REALTOR, CLHMS, SRES

Broker-In-Charge; RB-17280

**THE CHOI GROUP with HAWAII LIFE**

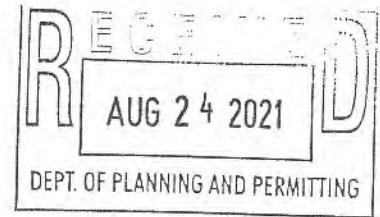
4614 Kilauea Ave., Ste 201, Honolulu, HI 96816

Cell (808)255-7143 / Office (808)734-7711

Email: [Julie@GarrisHawaii.com](mailto:Julie@GarrisHawaii.com)

*There are blessings every day. Find them. Create them. Treasure them.*

**From:** Laura Chong [<mailto:LAURA.CHONG@locationshawaii.com>]  
**Sent:** Tuesday, August 24, 2021 10:20 PM  
**To:** [info@honoluludpp.org](mailto:info@honoluludpp.org)  
**Subject:** Short term rental proposed change



CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

This is in reference to the proposed change to make any rental under 180 days a "Short-Term Rental or Transient Vacation Unit". This is absurd! I am a Realtor and below are the many reasons, I along with my fellow Associates, feel this should not be changed

1. We fully support enforcement actions against illegal Short-Term Rental operators. There is no need to change the definition from 30 days to 180 days. We just need to properly enforce the 30 day rule.

2. As licensed real estate professionals, we frequently encounter people on Oahu who need rentals of less than 180 days. These uses include:

- Families from out of State that are taking care of loved ones
- People moving to Oahu and looking to buy a home
- Families who are waiting for their new home to complete construction
- Government contract workers
- Traveling nurses
- Military PCS while looking for a home to buy
- Home Sellers who need to rent until they find a new property
- Film and TV crews while on a shoot

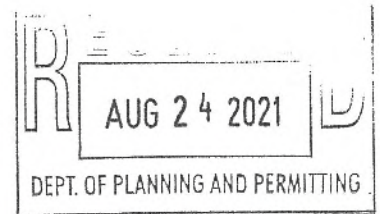
3. It is overly broad to include all rentals 30 days or greater as Short-Term Rentals and will harm many local property owners as well as the Tenants that stay in their homes.

Just this year I had a family from outer Island rent my 1-bdrm unit for 2-months to tend to assist with their Dad who was in hospice. If this new provision was in effect, they would have had to either incur a higher cost at a hotel breaking their pocketbook or most likely not been able to come.

**Laura P. Chong (RA)**  
**Locations LLC**  
**License RS-14623**  
**Cell: (808) 225-2069**  
**Efax: (808) 732-8559**  
**[laura.chong@LocationsHawaii.com](mailto:laura.chong@LocationsHawaii.com)**  
**Website: [laurachong.com](http://laurachong.com)**  
**614 Kapahulu Ave. #200**  
**Honolulu, Hi. 96815**



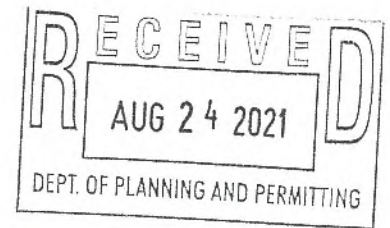
**From:** Lisa Glenn [<mailto:tomokogr8@gmail.com>]  
**Sent:** Tuesday, August 24, 2021 10:13 PM  
**To:** [info@honoluludpp.org](mailto:info@honoluludpp.org)  
**Subject:** Agreed



CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

Lisa Glenn  
Royal Hawaii Really Inc.,  
Broken  
808-330-0235

**From:** lesley quan [<mailto:les1quan@hotmail.com>]  
**Sent:** Tuesday, August 24, 2021 8:49 PM  
**To:** [info@honoluluodpp.org](mailto:info@honoluluodpp.org)  
**Subject:** Lesley Quan (809) 7289319

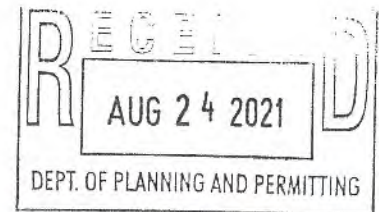


CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

I vote to keep short term rental because Hawaii is one of the world's famous travel destinations, we all have friends and families from other countries visit Hawaii. it will be more welcoming if we would have our own place to share with them rather than to have them to have to stay in a hotel.

Lesley Quan  
(808) 7289319

**From:** jerry chan [<mailto:jchan808realtor@gmail.com>]  
**Sent:** Tuesday, August 24, 2021 8:43 PM  
**To:** [info@honoluludpp.org](mailto:info@honoluludpp.org)  
**Subject:** Oppose new bill about short term rental

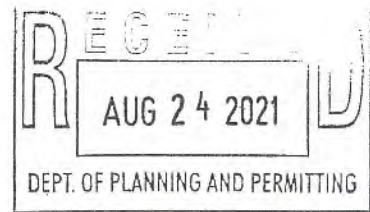


CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

1. **Only hotels can a) manage, and b) set rental rates for condotels!** — Seems unreasonably lopsided and restrictive. Hotels have been divesting themselves from ownership for years. The **Ala Moana Hotel**, **Aloha Surf**, and **Palms At Waikiki** all converted to condotels. Hotels want management control but not the risk and responsibility of upkeep. A dozen condotels operate flawlessly without a 24h service desk. So do trains, train stations, some buses, and many airline check-in counters. Perhaps the revised Hotel definition still requiring a 24h front desk is outdated. Individual owners buy condotels with the right to self-manage, and or the right to use third-party property managers. It promotes competition, innovation, and progress. That's how evolution, the economy, and business work. The DPP trying to remove management rights from condotel owners does *not* reduce impact on residential neighborhoods. What is the hidden agenda?
2. **Rental terms of <180 days (*instead of* <30 days) are illegal unless the property is a B&B or TVU.** — Say what? Whoever needs a temporary rental for less than 6 months will need to check into a hotel/B&B?

Jerry Chan  
(808)783-8889

**From:** Melissa Lindsay [<mailto:mlindsay@hawaii.rr.com>]  
**Sent:** Tuesday, August 24, 2021 8:28 PM  
**To:** [info@honoluluudpp.org](mailto:info@honoluluudpp.org)  
**Subject:** Written testimony concerning Amendments to TVU Rules



CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

To whom it may concern:

I question the proposed rule that "B&Bs and TVUs are defined as less than 180 consecutive days". I recommend reducing the number of days considered as "transient" to 29 days. Many people come here to work on a project, such as visiting professors, students doing internships or taking one semester of coursework, consultants to businesses, etc. How will these types of visitors who contribute to Hawaii be accommodated? Further, many residents seek leases for shorter than 6 months due to a variety of life circumstances. With this part of the proposal, you are doing more damage than good.

How is this proposed rule of a minimum of 180 days NOT in conflict with state rental laws for leasing month-to-month? Will the City also be changing the laws to eliminate all month-to-month leasing, and make all leases 6 months or more? This is not for the good of our people. It is reactionary and not well-considered.

**From the "Handbook for the Hawaii Residential Landlord-Tenant Code** is published by the Office of Consumer Protection, a division of the State Department of Commerce and Consumer Affairs."

A. Written Agreements. A written agreement may be for any length of time: month-to-month, six-months, one-year or any other term.

Rent - Section 21. Rent is usually paid on either a monthly or weekly basis. Normally, rent is paid on a monthly basis in a month-to-month tenancy and on a weekly basis in a week-to-week tenancy

Submitted by  
Melissa Lindsay  
Kailua resident  
808-256-3347

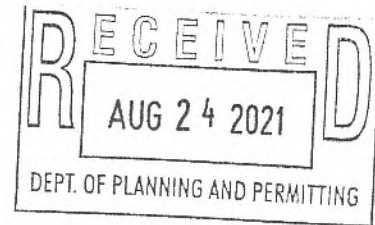
-----Original Message-----

From: Eric Chen [<mailto:EricProperties@hotmail.com>]

Sent: Tuesday, August 24, 2021 5:33 PM

To: [info@honoluludpp.org](mailto:info@honoluludpp.org)

Subject: Short term rental period less than 180 days



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Aloha,

I am a realtor and hosted many outsiders to Hawaii purchasing homes. Many of them actually settle down in Hawaii. And have made our economic better. These people needs short staying 3/4 months. Please do not make less 180 days as short term rental. And of course less 30 days is good.

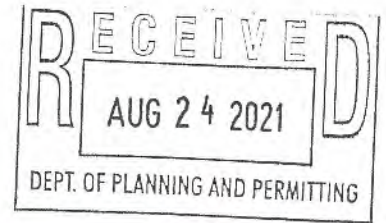
Mahalo~

Eric Chen

(808) 683-5003

[EricProperites@hotmail.com](mailto:EricProperites@hotmail.com)

**From:** Greg Hong [<mailto:greg@greghong.com>]  
**Sent:** Tuesday, August 24, 2021 5:17 PM  
**To:** [info@honoluludpp.org](mailto:info@honoluludpp.org)  
**Subject:** A Bill For An Ordinance Relating To Transient Accommodations



CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

Dear Sir:

I fully support enforcement actions against illegal short-term rental operators. There is no need to change the definition from 30 days to 180 days. The planning department just needs to properly enforce the 30-day rule.

As an independent real estate appraiser having appraised many rental apartments and single-unit properties over the past 30 years, I have observed that the residential month-to-month rental agreements authorized under the Hawaii Landlord-Tenant Code benefit both landlords and tenants, more so the tenants because the flexibility of monthly occupancy is more responsive to the needs of tenants, particularly in cases of job changes, job losses, family deaths and emergencies. Increasing the short-term rental threshold to 180 days will eliminate this flexibility and harm many tenant households. It is these tenant households who, through no fault of theirs, would suffer if locked into a lease six months or longer under a proposed 180-day rule.

Thank you for the opportunity to submit this written testimony.

Respectfully submitted,

Gregory Hong  
1050 Bishop Street #310  
Honolulu, Hawaii 96813  
(808) 538-0001

**Greg Hong**  
1050 Bishop Street #310  
Honolulu, Hawaii 96813  
(808) 538-0001

August 24, 2021

SENT BY EMAIL ONLY

City and County of Honolulu  
Department of Planning and Permitting  
650 South King Street  
Honolulu, Hawaii 96813  
info@honoluludpp.org

RE: A Bill For An Ordinance Relating to Transient Accommodations

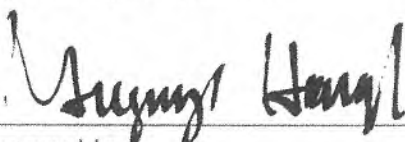
Dear Sir:

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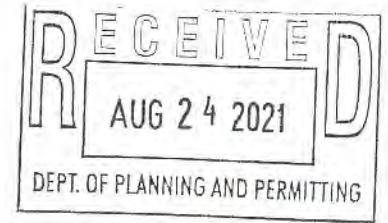
As an independent real estate appraiser having appraised many rental apartments and single-unit properties over the past 30 years, I have observed that the residential month-to-month rental agreements authorized under the Hawaii Landlord-Tenant Code benefit both landlords and tenants, more so the tenants because the flexibility of monthly occupancy is more responsive to the needs of tenants, particularly in cases of job changes, job losses, family deaths and emergencies. Increasing the short-term rental threshold to 180 days will eliminate this flexibility and harm many tenant households. It is these tenant households who, through no fault of theirs, would suffer if locked into a lease six months or longer under a proposed 180-day rule.

Thank you for the opportunity to submit this written testimony.

Respectfully submitted,

  
\_\_\_\_\_  
Gregory Hong

**From:** LISA NAKAGAWA [[mailto:lisa\\_nakagawa@hotmail.com](mailto:lisa_nakagawa@hotmail.com)]  
**Sent:** Tuesday, August 24, 2021 5:03 PM  
**To:** [info@honoluludpp.org](mailto:info@honoluludpp.org)  
**Subject:** Keeping long term rentals at 30 days



CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

Aloha,

I am writing about the recent proposal to recognize all rentals under 180 days as transient short term rentals.

I own two legal vacation rental units on Maui, in a hotel zoned district and building. The AOAO there had made a house rule long before I bought into the property, that anything under 30 days was considered a short term rental. So even though our units were licensed and legal we had to rent longer than 30 days. The AOAO and some retired owners then got together to change the house rules again to say that anything under 180 days was not allowed because it was considered a short-term rental. Eventually, I joined a group of owners and we had to retain an attorney, get a copy of our documents from the County proving that we were a hotel zoned complex that could do nightly rentals and sue our own board to exercise our free right to do what we wanted with our private property.

I think that this is a very important thing to have if you own property in Hawaii - the right to do what is legally allowed with your property.

More than changing the short term rentals to anything under 180 days, the County of Honolulu would be better off dedicating time and resources to weeding out all the illegal vacation rentals. I know there is a task force set up under the tax department because my brother got a letter that his unit at the Executive Centre did not have a TA license # listed on his Airbnb listing. We actually had it listed but in the wrong place. But the letter was a stern one and the penalties for operating an illegal vacation rental was high. Everything got cleared up once we submitted the TA # and it showed that my brother was paying his TA & GE taxes the whole time. But when our neighbors tried to put a stop to an illegal vacation rental in their neighborhood, nothing could be done, despite calls to various departments.

This illegal vacation rental was the site of the shooting of Lindani Myeni. Months before this happened, numerous neighbors filed complaints and even called the police to try and shut down operations but nothing was done. After the shooting, a committee was formed and they set up Zoom meetings with people in office, the Chief of Police, the DPP, etc and still nothing was done. I even called the task force # that was on the letter my brother received and asked the person there to follow up. I gave the Airbnb listing number and info, etc. Even on the news and in the newspaper it is clearly stated that the site of the shooting was a short term vacation rental and that the couple who called the police were travelers renting the Airbnb space.

If the County was smart they would go after these illegal vacations, fine them and sue to get back taxes owed. From emails I have received from VRBO and Airbnb, it seems the sites are cooperating with Hawaii officials in making sure all listings w/out a valid TA license # are taken down. But more than that, those owners should be fined.

I think that changing the term to 180 days will do nothing but cause more people to have to pay the high hotel TA tax when they need to come and stay for longer than a month. For business people that's probably fine. But for people coming over for medical reasons, family visiting or relocating, folks trying to rent out their second homes and most importantly, nurses and doctors who are temporarily being transferred here for COVID relief, the added expense will be a huge burden.

I strongly urge that the County look at ways to stop all the illegal vacation rentals from operating period. But it should only be for rentals that are shorter than 30 days.

Mahalo for your attention to my letter.

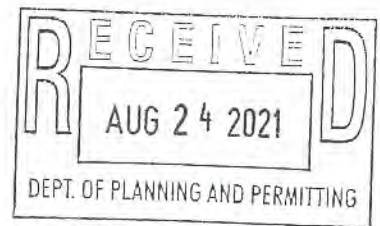
Lisa Nakagawa

**From:** Paul Roy [<mailto:paulroybroker@gmail.com>]

**Sent:** Tuesday, August 24, 2021 4:37 PM

**To:** [info@honoluluodpp.org](mailto:info@honoluluodpp.org)

**Subject:** Written Testimony in Opposition of law changes for any rental under 180 days a "Short-Term Rental or Transient Vacation Unit"



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Aloha Honolulu Department of Planning.

I am writing in opposition to the Honolulu Department of Planning and Permitting proposed change to make any rental under 180 days a "Short-Term Rental or Transient Vacation Unit".

I fully support enforcement actions against any and all illegal Short-Term Rental operators. Yet, I do not support this rule change.

As a Broker in Charge for Corcoran Pacific Properties and a Member of the Hawaii Association of Realtors and a licensed real estate professional for nearly 30 years, I must oppose rule change. There is no need to change the definition from 30 days to 180 days. We just need to properly enforce the 30 day rule for those in violation. As prior Law Enforcement I fully support penalizing law breakers.

Please consider that as Realtors, we frequently encounter people on Oahu who need rentals of less than 180 days. These reasons include:

- Families from out of State that are taking care of loved ones
- People moving or being transferred to Oahu and looking to buy a home or other permanent housing
- Families who are waiting for their new home to complete construction or purchasing an existing home where the seller maintains occupancy for a short period after closing
- Government contract workers
- Traveling medical, construction, and contractor staff
- Military PCS while looking for a home to buy or rent more permanent housing
- Home Sellers who need to rent until they find a new property
- Film and TV crews while working on a movie production
- There probably even more I can not think of at the moment.

This proposal is overly broad and far reaching. It makes no common sense to include all rentals 30 days or greater as Short-Term Rentals. I believe it will harm many local property owners as well as the Tenants that rent in their homes.

I remember my own story. I was relocated to Hawaii in 2013 for a new job position. I had never been to Hawaii so I was lucky to find a short term rental (small studio) until I familiarized myself with the neighborhoods and areas close to my work. On a map everything seems close when in reality it can be an hour or more away.

The studio was all I could find and it would never work for the long term. It took us nearly 60 days to find a suitable property for our family. In today's rental crisis it would have been very difficult had the owner been required to follow this new law. We may not have transferred.

Hawaii wants to be more business friendly, to attract more industries, yet rules like this make Hawaii even less desirable to other industries to expand on Hawaii with these harmful laws.

Lastly, decisions like this do not provide solutions, just trade offs and unintended consequences that will further harm our already fragile housing and rental market. Mostly affecting those that have the least resources. If you're rich. You can buy yourself out of a housing shortage. If you're a common person like most of us working people...You can not.

Thank you for your concern and interest.

Please contact me if you have any questions.

Paul Roy

--



***CORCORAN***

PACIFIC PROPERTIES

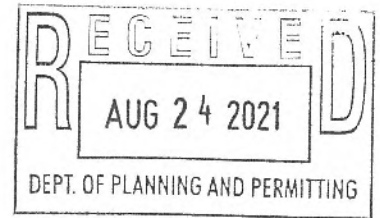
**Paul Roy**, RB21742,  
Broker-in Charge

Corcoran Pacific Properties

808.482.9777 | [paul.roy@corcoranpacific.com](mailto:paul.roy@corcoranpacific.com)

[www.corcoranpacific.com](http://www.corcoranpacific.com)





-----Original Message-----

From: Richard Emery [<mailto:randrhawaii@gmail.com>]

Sent: Tuesday, August 24, 2021 4:33 PM

To: [info@honoluluodpp.org](mailto:info@honoluluodpp.org)

Subject: Draft TVR rules

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

I rent my unit in Waikiki to nurses, educators, military on short assignment. They don't want to stay in a hotel. This is a legitimate need and not a tourist.

World travel is changing and Hawaii needs to adapt to new trends. Not destroy our economy.

Sent from my iPhone

**From:** Linda Axtell-Thompson [mailto:linda.axtell1@gmail.com]

**Sent:** Wednesday, August 25, 2021 9:14 AM

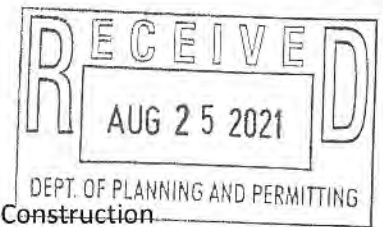
**To:** Mayor Rick Blangiardi <mayor@honolulu.gov>; Department of Design and Construction

<ddc@honolulu.gov>; info@honoluludpp.org; dbedt.webmaster@hawaii.gov;

dbedt.op.lud@hawaii.gov; citydesk@staradvertiser.com

**Cc:** Linda Axtell-Thompson <linda.axtell1@gmail.com>

**Subject:** HEADS UP! -- another scheme to circumvent vacation rental laws



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<https://www.npr.org/sections/money/2021/08/24/1030151330/a-unicorn-startup-is-turning-houses-into-corporations>

Excerpts from article below:

## A Startup Is Turning Houses Into Corporations, And The Neighbors Are Fighting Back

A new company called Pacaso converts houses into LLCs, then sells shares of these corporate houses to multiple investors.

Pacaso was founded in October 2020 by Austin Allison and Spencer Rascoff, two former executives at Zillow. The company is based in San Francisco, and as is typical of tech startups in the Silicon Valley area, its founders tell a lofty story about their business that's about more than just making money. The company says the motivation for the venture began when Allison and his wife, both based in Napa, bought a second home in Lake Tahoe. The night after they closed on the house, Allison says in a promotional video, he and his wife sat around a fire "thinking how appreciative we were to be second homeowners. And, from that moment, I've always been inspired about making the dream of second home ownership possible for more people."

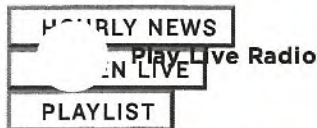
To make second home ownership possible for more people — and, of course, make money — Pacaso uses a "fractional home ownership" model. They buy a house, lightly refurbish it, furnish it and then create an LLC for it. They then divvy up ownership of this corporatized house into eight fractions and sell those shares on their website.

If you buy a share in a house, you're able to stay in it 44 nights per year in increments that can't exceed 14 consecutive days per visit. You can also "gift" these stays to friends or family. Pacaso offers an app to handle the logistics of booking stays. It oversees management, maintenance and cleaning of the property. In exchange for all this, it charges 12% of the home's purchase price upfront and monthly fees going forward. If you buy a share in a house, you have to hold on to it for a year. After that, you can sell it and profit from any appreciation in the home's value (or be on the hook for any depreciation).

Pacaso argues that its clients are not short-term renters. They are co-owners of an LLC. This also means they don't have to pay the typical taxes on short-term rentals. Likewise, in the nearby town of St. Helena, Pacaso was trying to circumnavigate a city ban against timeshares with the

same argument. [REsidents] saw Pacaso's newfangled business model as nothing more than a "glorified timeshare" with a legal strategy aimed at "skirting regulations that are designed to keep communities intact."

Pacaso says it plans to expand across North America and Europe. Given the company's billion-dollar valuation, investors seem to believe that many people will be attracted to its model of fractional second home ownership. But local residents will likely continue to fight the unicorn stampeding into their towns.

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# A Startup Is Turning Houses Into Corporations, And The Neighbors Are Fighting Back

August 24, 2021 · 6:30 AM ET

GREG ROSALSKY



Brad Day and his neighbors in California's Sonoma Valley have noticed a real estate startup is turning houses in their community into limited liability corporations. A group has formed to oppose the company's moves. Day's favorite sign reads, "The Pacaso house is the big one on the right with no soul."

*Brad Day*

On a sleepy cul-de-sac amid the bucolic vineyards and grassy hills of California's Sonoma Valley, a \$4 million house has become the epicenter of a summer-long spat between angry neighbors and a new venture capital-backed startup buying up homes around the nation. The company is called Pacaso. It says it's the fastest company in American history to achieve the "unicorn" status of a billion-dollar valuation — but its quarrels in wine country, one of the first regions where it's begun operations, foreshadow business troubles ahead.

Brad Day and his wife, Holly Kulak, were first introduced to Pacaso in May after a romantic sunset dinner in their yard. "And we just saw this drone, coming up and over our backyard," Day says. "And we're like, what is that?"

Pacaso denies directing or paying a drone operator to film the neighborhood. But its website does have drone photos of the house in question, located at 1405 Old Winery Court. It says it bought the photos after the fact.

Nonetheless, after the drone incident, Day and Kulak got suspicious about what was going on in their neighborhood. About a week later, their neighbors told them they were moving and selling their house to a limited liability corporation, or LLC. But they were super vague about it.

**Article continues after sponsor message**

***[Editor's note: This is an excerpt of Planet Money's newsletter. You can sign up here.]***

Day and Kulak began speaking with other residents on their cul-de-sac. One of them, Nancy Gardner, had learned from a friend in nearby Napa Valley about a new company called Pacaso that was buying houses in the area. The company was co-founded by a Napa resident, and it converts houses into LLCs. Pacaso then sells shares of these corporate houses to multiple investors. Gardner Googled Pacaso, and, sure enough, the house on their cul-de-sac was on its website. The company had named the house "Chardonnay" and was now selling investors the chance to buy a one-eighth share of it for \$606,000.

## **Pacaso is less than a year old**

Pacaso was founded in October 2020 by Austin Allison and Spencer Rascoff, two former executives at Zillow. The company is based in San Francisco, and as is typical of tech startups in the Silicon Valley area, its founders tell a lofty story about their business that's about more than just making money. The company says the motivation for the venture began when Allison and his wife, both based in Napa, bought a second home in Lake Tahoe. The night after they closed on the house, Allison says in a promotional video, he and his wife sat around a fire "thinking how appreciative we were to be second homeowners. And, from that moment, I've always been inspired about making the dream of second home ownership possible for more people."

To make second home ownership possible for more people — and, of course, make money — Pacaso uses a "fractional home ownership" model. They buy a house, lightly refurbish it, furnish it and then create an LLC for it. They then divvy up ownership of this corporatized house into eight fractions and sell those shares on their website.

If you buy a share in a house, you're able to stay in it 44 nights per year in increments that can't exceed 14 consecutive days per visit. You can also "gift" these stays to friends or family. Pacaso offers an app to handle the logistics of booking stays. It oversees management, maintenance and cleaning of the property. In exchange for all this, it charges 12% of the home's purchase price upfront and monthly fees going forward. If you buy a share in a house, you have to hold on to it for a year. After that, you can sell

it and profit from any appreciation in the home's value (or be on the hook for any depreciation).

## The neighbors got together to oppose Pacaso

When Day, Kulak and their neighbors learned about Pacaso's business model, they were appalled. They saw the venture capital-backed company as invading their community and converting their neighbor's house into a revolving carousel of vacationers. They imagined endless parties, noise and cars overflowing their cul-de-sac. They worried those staying at "Chardonnay" would drive too fast and fail to heed local concerns about wildfires and droughts. But, most of all, they feared the Pacaso house and more like it would destroy their sense of community and turn their neighborhood into an "adult Disneyland."

The county, Day says, had designated their neighborhood an "exclusion zone," which bans Airbnb-style, short-term rentals to preserve the "residential character" of communities. But Pacaso argues that its clients are not short-term renters. They are co-owners of an LLC. This also means they don't have to pay the typical taxes on short-term rentals. Likewise, in the nearby town of St. Helena, Pacaso was trying to circumnavigate a city ban against timeshares with the same argument. Day says he and his neighbors saw Pacaso's newfangled business model as nothing more than a "glorified timeshare" with a legal strategy aimed at "skirting regulations that are designed to keep communities intact."

The cul-de-sac sprang into action. It formed an organization called Sonomans Together Opposing Pacaso, which, not coincidentally, has the acronym STOP. It contacted the county Board of Supervisors. It created an anti-Pacaso website and circulated an online petition. It flooded the local newspaper with op-eds and letters to the editor. It lobbied local real estate agents not to work with Pacaso. "It feels like we're waging a war by land, air and sea," Day says.

Protest signs festoon the neighborhood's lawns, fences and cars. They say things such as "Stop Pacaso" and "Not here, Pacaso!" Day's favorite sign reads, "The Pacaso house is the big one on the right with no soul."

## Customers are still buying shares in Pacaso's homes despite protest signs

The signs, of course, make the prospect of buying a share in the Pacaso house awkward, to say the least. Alfred Miller, however, bought a share in "Chardonnay" before ever seeing it in person. Miller is a risk management consultant based in Los Angeles. He believes in Pacaso's business model. And he likes wine and Sonoma's climate. As he researched "Chardonnay" online, he liked the modern architecture and pool, and he decided he'd buy a one-eighth share of the house. It wasn't until a couple weeks after he made the purchase that he first drove up to Sonoma and witnessed the spectacle around his new investment.

"So, imagine me as a new owner driving up, and I get to the corner of Old Winery Court," Miller says. "There's a full-on, professionally printed sign that says 'No Pacaso.' " Miller then turned right onto Old Winery Court "and the more I drive into the neighborhood, the more signs I see. Brad Day has three vehicles in front of his house, and each vehicle has an anti-Pacaso sign on it. I pull into the driveway — there are two signs on each side of the property. I mean, it was not what I would call very welcoming."

As it did on Old Winery Court, controversy erupted in Napa after the company bought a home worth \$1.13 million. That's about 35% higher than Napa's median home price. Pacaso insists it only buys luxury and ultra-luxury houses, and it therefore isn't competing with local middle-class families in the housing market. But this home, located two blocks from a high school, didn't quite fit its talking points. Some Napers were pissed. Pacaso says the house was the victim of trespassing and "illegal signage." Pacaso even claims it had to file a police report after a local wrote to the company and said, "I will burn down any home you buy in Napa. This is no joke."

Pacaso's CEO, who lives in Napa, saw firsthand how angry Napers were, and the company responded. In June, Pacaso agreed to sell the Napa home in a traditional manner "to a whole home buyer" rather than convert it into a corporation and sell it to multiple people. The company also pledged to beef up its "Owner Code Of Conduct" to include "decibel limits on all home sound systems," create a "local liaison" dedicated to assisting neighbors, not buy any homes in the area for under \$2 million, and, for

each house sold in Napa and Sonoma counties, donate \$20,000 to a local nonprofit dedicated to affordable housing.

But while it has been trying to placate local communities with business reforms, Pacaso has waged a court battle with the town of St. Helena over whether its homes should be classified as timeshares. Pacaso is dead set against that classification. One reason might be that timeshares have a bad rap: While they're a popular way to go on vacations, their costs and associated fees tend to make them money losers rather than a profitable investment.

## **The timeshare model — which Pacaso says it is not doing — is already illegal in many places**

Potentially even more damaging to Pacaso's ambitions, however: Timeshares are banned in many vacation communities around the nation. Hence, Pacaso has strong reasons to insist its homes are not timeshares.

"Unlike a timeshare model, the co-owners that Pacaso serves collectively own real estate, not time," says Ellen Haberle, director of community and government relations for Pacaso.

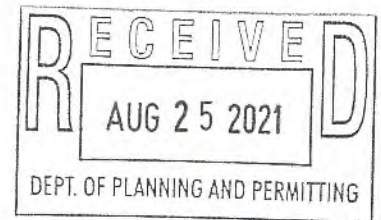
St. Helena disagrees, declaring Pacaso homes are not allowed in the town because of a city ordinance against timesharing. "Simply calling them co-ownership arrangements does not change that fact," City Attorney Ethan Walsh said. In response to the ban, Pacaso sued the town in federal court. The lawsuit is still pending.

Pacaso says it plans to expand across North America and Europe. Given the company's billion-dollar valuation, investors seem to believe that many people will be attracted to its model of fractional second home ownership. But local residents will likely continue to fight the unicorn stampeding into their towns.

*Did you enjoy this newsletter segment? Well, it looks even better in your inbox! You can sign up [here](#).*

pacaso   housing

**From:** Breana Ford [<mailto:breauna.ford@elitepacific.com>]  
**Sent:** Wednesday, August 25, 2021 9:15 AM  
**To:** [info@honoluluudpp.org](mailto:info@honoluluudpp.org)  
**Subject:** In opposition of bill 89



CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

1. We fully support enforcement actions against illegal Short-Term Rental operators. There is no need to change the definition from 30 days to 180 days. We just need to properly enforce the 30 day rule.
2. As licensed real estate professionals, we frequently encounter people on Oahu who need rentals of less than 180 days. These uses include:
  - a. Families from out of State that are taking care of loved ones
  - b. People moving to Oahu and looking to buy a home
  - c. Families who are waiting for their new home to complete construction
  - d. Government contract workers
  - e. Traveling nurses
  - f. Military PCS while looking for a home to buy
  - g. Home Sellers who need to rent until they find a new property
  - h. Film and TV crews while on a shoot
3. It is overly broad to include all rentals 30 days or greater as Short-Term Rentals and will harm many local property owners as well as the Tenants that stay in their homes.

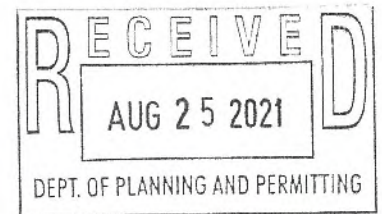
*Aloha*



**Breana Ford**, RS-8323  
R(S) | PROPERTY MANAGER  
LONG TERM & VACATION  
RENTALS ELITE PACIFIC LLC  
808.989.2424 | [Breauna.ford@elitepacific.com](mailto:Breauna.ford@elitepacific.com)  
[www.elitepacific.com](http://www.elitepacific.com)



**From:** Mark Petritz [<mailto:markpetritz@gmail.com>]  
**Sent:** Wednesday, August 25, 2021 9:47 AM  
**To:** [info@honoluluudpp.org](mailto:info@honoluluudpp.org)  
**Subject:** Support BnB



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BnBs are not the problem.

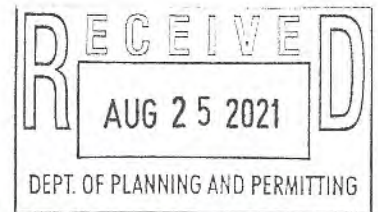
Why are you looking to reverse 19-18 which has been dangling out there for months on end.

Support local families and allow Bnbs to be permitted. There aren't noise issues when the owner resides on the property.

Mark Petritz

Principal Broker, Realtor  
Petritz Realty  
RB-19811  
Direct: +1 808.779.3232  
[markpetritz@gmail.com](mailto:markpetritz@gmail.com)

**From:** Napua Sunn [<mailto:napuasunn@gmail.com>]  
**Sent:** Wednesday, August 25, 2021 10:02 AM  
**To:** [info@honoluluudpp.org](mailto:info@honoluluudpp.org)  
**Subject:** Revised short-term rental bill to Planning Commission



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Good morning,

I am submitting information for the upcoming proposal on short term rentals on Oahu. I have had both long term and short term tenants in the past. Long term tenants, in my experience, have been much more difficult than short term tenants.

It is not our job as homeowners to provide affordable housing to residents-that is your job. What you are doing is trying to force us to rent our homes at a reduced rate. How about you rent part of your home as affordable housing instead of trying to get us to do your job?

I already did your job and after providing housing to Section 8 recipients for 15 years, my property was left in ruin, costing me \$60,000 to renovate-it was unliveable. I am still paying off their debt. All the while I slept on a couch to provide for my children.

Now, there may be a path through B&B permitting to provide the income we desperately need and you want to strip us of that opportunity. We cannot and will not support your attempts to use us to fund your department.

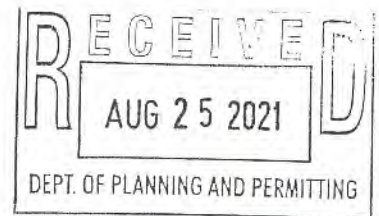
Mahalo,  
Napua

**From:** Larry E. Oldfield [<mailto:larry@olaproperties.com>]

**Sent:** Wednesday, August 25, 2021 10:05 AM

**To:** [info@honoluluodpp.org](mailto:info@honoluluodpp.org)

**Subject:** The Proposed Change to make any rental under 180 days a "Short-Term Rental"



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Aloha,

As a Real Estate Broker and operator of a Property Management Company, I have received numerous emails regarding proposed changes submitted by the DPP that would change any rental for less than 180 days to a Short-term Rental or Transient Vacation Unit. I feel that to make such a change would be a BIG MISTAKE.

While I support enforcement actions against illegal Short-Term Rental operators. There is no need to change the definition from 30 days to 180 days, just enforce the 30 day rule that is already in place. As a Property Manager in the Ko Olina area, We frequently have people staying in homes we manage who need a rental for 30 days or more, but less than 180 days. In the past, some of these have included:

- Families who have traveled from out of State to care for loved ones or to be there at the end of a loved one's life
- People moving to Oahu and looking for a home to purchase
- Families who are waiting for their new home to complete construction
- Government and private sector contract workers

- Traveling doctors and nurses
- Military PCS when they first arrive to the island, or are leaving and either looking to purchase a home or have sold theirs
- Home Sellers who need to rent until they find a new property
- Film and TV crews while shooting a movie or television show

I believe it is overly broad to include all rentals 30 days or greater as Short-Term Rentals and will harm many Local Property Owners as well as the Tenants that stay in their homes for less than 180 days. Thank you for taking the time to read this and I hope you will consider these things prior to making a decision.

Regards,

Larry E. Oldfield, R  
Principal Broker  
Ola Properties, Inc.  
Tel: 808-726-2871

[www.OlaProperties.com](http://www.OlaProperties.com)

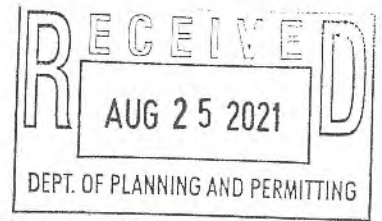
License # RB-19820

**From:** アリーハウス [<mailto:arryokano@gmail.com>]

**Sent:** Wednesday, August 25, 2021 10:37 AM

**To:** [info@honoluluudpp.org](mailto:info@honoluluudpp.org)

**Subject:** Registration for online meeting for Proposal of long term rental from 30 days to 180 days



CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

Dear Sir or Madam,

Will you please register me for the online meeting for Proposal of long term rental from 30 days to 180 days?

Name

Arinobu Okano

phone

808-428-1986

Please do not crash our economy by changing the rule.

We are depending on the tax from the tourists and also we as the local need the short term rentals.

Will you please understand that some government workers cannot work without them.

Hotel did not operate by requesting the money from the state and federal during the covid crisis.

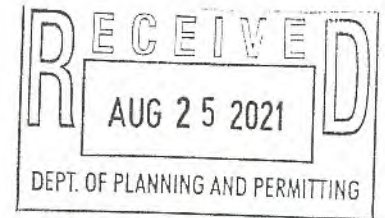
Those vacation rental units are the only ones who helped us by providing the accommodations during the hardest time.

They help paying the unemployment insurance fee by renting their unit to the locals and hospital workers from outside state and paying the TA and GE tax to the state.

Mahalo!!

Arinobu Okano

**From:** Vicki SLOTNICK [<mailto:vicki@summerlandisland.com>]  
**Sent:** Wednesday, August 25, 2021 10:39 AM  
**To:** Department of Planning and Permitting <[dpp@honolulu.gov](mailto:dpp@honolulu.gov)>  
**Subject:** Re: Whole House TVU's vs Owner Occupied B&B's



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Thank you so much for your response. The website has not changed since application submittal was suspended.

Can you just tell me if it is moving forward?

Any update would be so helpful

Thanks again so much

Vicki

Sent from my iPhone

On Aug 23, 2021, at 11:40 AM, Department of Planning and Permitting <[dpp@honolulu.gov](mailto:dpp@honolulu.gov)> wrote:

Good morning,

Please visit our website dedicated to Short Term Rentals at <https://www.honolulu.gov/dpp/str> for news and updates.

Thank you!

**From:** Vicki Paige [<mailto:vicki@summerlandisland.com>]  
**Sent:** Monday, August 23, 2021 11:17 AM  
**To:** Department of Planning and Permitting <[dpp@honolulu.gov](mailto:dpp@honolulu.gov)>  
**Cc:** [info@honoluludpp.org](mailto:info@honoluludpp.org)  
**Subject:** Re: Whole House TVU's vs Owner Occupied B&B's

CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

Aloha

I listened to our Governors News Conference this morning and it sounded like you will be opening the short term rental applications soon.

If you have any update on timeline to be able to apply - I would be so grateful for the update.

We appreciate all you guys are doing and all your doing to keep our Hawaii neighborhoods and neighbors happy. We are with you and grateful for you and all you do.

Warmest Mahalo

Vicki

On Jun 30, 2021, at 3:18 PM, Department of Planning and Permitting <[dpp@honolulu.gov](mailto:dpp@honolulu.gov)> wrote:

Good Afternoon,

Please visit our website dedicated to Short Term Rentals at [www.honolulu.gov/dppstr](http://www.honolulu.gov/dppstr).

The registration for new short term rentals is currently suspended. As updates become available we will include them on the website.

Thanks!

**From:** Vicki Paige <[vicki@summerlandisland.com](mailto:vicki@summerlandisland.com)>

**Sent:** Wednesday, June 30, 2021 11:12 AM

**To:** [info@honoluludpp.org](mailto:info@honoluludpp.org)

**Subject:** Re: Whole House TVU's vs Owner Occupied B&B's

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Aloha

I am a home owner and fall under all the requirements to apply for the new B&B permits.

Is there any update as to when the applications will open for people like me to apply?

I would really really appreciation any guidance and assistance.

Thank you for all your doing - I love that this Bill supports those of us who live here and care so much about our communities.

Warmest Mahalo

Vicki

808-600-9731

On Apr 7, 2021, at 2:29 PM, Vicki Paige <[vicki@summerlandisland.com](mailto:vicki@summerlandisland.com)> wrote:

Aloha,

I just wanted to send an email to first and foremost say Thank You for your care, your time and your concern in getting these new B&B license's implemented for residents and in the process taking everyone concerned (on both sides) into consideration.

Whatever happens in your decision - first and foremost I just want to let you know that we in the community really appreciate your efforts.

After the meeting yesterday and after so much reflection....I wanted to share a few things that stood out - the biggest being that there seems to be confusion with the Whole House / Non-Confirming TVR's and that they are not the same as these new B&B Rentals that we are discussing.

Whole house rentals non-conforming TVR;s have really caused a made a bad impression on local residents - it seems to have confused some residents and caused them to think that their neighborhoods will be filled with parties, large noisy groups etc when considering new short term rentals.....

I don't think it is fair to take away a residents opportunity to rent a room or two in their home - to supplement their income - because they could be in close proximity to a non conforming whole house renter (where by owners typically are investors who do not live in the community and are not invested in the community but are invested in making money). The home owner is invested in the community - their neighborhood - their neighbors.

The new B&B license is clearly very different - a room or two in a residents home - where the resident is present and on top of making sure guests are respectful is not the same as a whole house (that is usually offered to sleep more people then there are bedrooms in the home) with no supervision.

It is these whole house rentals that have caused the problems in the neighborhoods because of the large unsupervised gathering of people who disrupt the communities and have given vacation rentals a bad name with local community members. These whole house rentals (with absent owners) should not effect these new B&B's for residents who just want to rent a room or two in their home and will be there to supervise..

Clearly as these two types of rentals are like comparing apples and oranges the new B&B's should not be effected by the 1000 foot rule that is on the bill - they are just not the same thing customer or the same type of vacation rental - A supervised room in a home vs a whole house with no supervision that can sleep 25 people.

Also the 1000 foot rule - if we were talking about renting whole vacation rental houses - then the 1000 foot rule make sense. I can understand the fear from the neighbor hoods that their neighborhood could be over run by party houses all around them.

But that is not the case in what we are discussing - we are discussing home owners renting a room or two in their homes. We are all just owners - Hawaii residents who want to legally rent a room or two in our homes to supplement our income - Hawaii is very expensive and in order to make ends meet this is a way home owners can do this and provide the Aloha that Hawaii is known for.

Again the issue has been that these whole house rentals that have not been monitored and have created fear in local residents who now think vacation rentals mean party houses. These new B&B's - Local residents sharing their home with a guest for a week - the residents living on property to monitor will not disrupt neighborhoods in any way if anything it brings aloha and money into the local stores..

Upon reflection it seems that the biggest issue is communities do not want party houses vacation rentals. Communities do not want off island owners to have investment rentals with no accountability. That is why this new bill worked - it allowed owners to rent rooms - supervising their guests and making sure the community and their neighbors are being respected.

The 1000 square foot should not be an issue when owners are there to monitor guests and be sure that neighbors are not disturbed. I would not matter if my next door and I both had the ability to rent a room a our home.

Owner occupied B&B are clearly not the same as whole house rentals that the owners live off the island. These whole house rentals should not cause a potential home owner to not be able to get these new B&B's license.

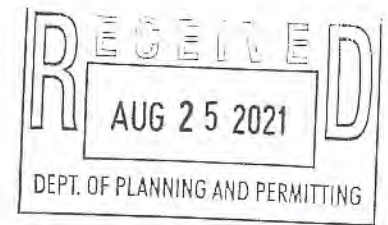
Bottom line the 1000 square feet should not apply to owner occupied B&B but I understand with whole house rentals that the 1000 foot rule would make sense.

Thank you so much for listening - My fingers are crossed so so tightly that we will get this B&B license - We love Hawaii - we love our home - our community - our neighbors and would really do all we can to be sure our guests (if we are lucky enough to get this license) are polite, considerate and follow the rules of the house that would first and foremost take our neighbors into consideration.

Warmest Mahalo

Vickiinfo

**From:** Frank Abagnale [[mailto:frank\\_w\\_abagnale292@yahoo.co.uk](mailto:frank_w_abagnale292@yahoo.co.uk)]  
**Sent:** Wednesday, August 25, 2021 10:51 AM  
**To:** [info@honoluludpp.org](mailto:info@honoluludpp.org)  
**Subject:** Proposed Bill - Public Hearing Sept 1st.



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To whom it may concern,

I feel the bill is flawed in many ways and does not address sufficiently many issues that it is looking to solve. It feels like it is written solely to benefit the Hotels directly, and put them at an unfair advantage, without consideration to all the landlords it will impact tremendously, along with tourism sectors it will wipe out, having a negative effect on the tourist industry as a whole.

Not to mention the unfair suggestions with regards to Condotels, without the mention of grandfathering in or compensation, like an Imminent Domain move this section looks to achieve.

I am a Real Estate investor that has been active in the Oahu market since 2016.

I am involved in several sectors, which I will outline here, all of which will be negatively impacted by this new proposed bill.

**Long Term Rentals** (12-month leases): I have recently purchased 22 condos in Hawaii Kai for strictly long-term rentals, with the withdrawal of all 30-day rentals in the residential market, housing values will drop across the board and across the island, causing me and others like me (with strategies that actually fit the bill in this case) to lose small fortunes. These are all in the affordable housing sector. We have also purchased houses on the island that we rent out long-term, again in the affordable housing arena, that we feel would lose value and cause the investments to go bad. The bill incentivizes investors to sell now and move funds out of state.

**Mid Term Rentals**: We also have condos that we rent out for 30 days, 60 days and 90 days. The 30-day rentals are for doctors from the mainland, traveling nurses, and the like. We have these on both the West Side and the East Side, along with the Diamond Head Area. They are loved by both the medical and the military professions and offer them perfect lengths of time. The new bill proposes to wipe those out altogether.

We also have property next to great winter surf breaks. We have surfers from all over the world coming to surf. They take the units for between 30 days and 90 days. The surfers would stop coming if they had to rent the properties for 180 days or longer. They also would not be staying in Waikiki (winter surf not good enough) or Turtle Bay Resort (can't afford the \$800 to \$1,200 a night price tags).

**Short Term Rentals:** I have property in Turtle Bay (Kuilima West and Kiulima East) that I bought specifically to do short-term rentals at, as permitted. The idea that I would now have to hand those over to a hotel to choose how to manage my properties, and at what rates, is ridiculous on many levels. Firstly, if I want to self-manage or have handpicked property management companies (this is what I have done) to manage my units, that I purchased knowing what could and what could not be done, then I should have that continued right. What is being proposed is a Monopoly Environment in which the hotels are given (in this example) but it is similar in town) approximately 400 units in Turtle Bay, for free, without their own investment, to manage and take their fees from (if this needs to happen then the hotels, at a very minimum, would need to buy all the units from the owners at no less than FMV)– AND who will set those new hotel fees? If I self-manage, I do not pay myself to manage, but I can go to a competitive market and get quotes anywhere from 6% up to 25%... what is to stop the hotels charging 50%? Or more? And kill all our investments. In addition, all those units are not uniform, will the hotel be able to take over 400 individually looking units in various states of condition? Some still in original dated levels and others upgraded in varying degrees. Will they force us all to renovate up to a higher grade? Who will pay for that, the hotels? They can't just come in and tell the owner he needs to invest \$100k to bring his/her unit up to hotel standards. And what about quality control, linens, towels, etc.? And now that the Hotel gets to utilize the condo amenities exclusively, will the hotel now start to pay the HOA fees? Or will they charge the guest a Resort Fee to offset the amenity costs and give this amount in full to the owners? Again, this just makes the state seem to not want investors here and I would also sell these units before the values drop and take that money out of state.

We also see many larger families that travel here, want to rent a house for their 2-to-3-week vacation. These affluent families spend a lot of tourist dollars on the island. They do the pricy activities, restaurants, bars, etc. They spend the thousands of dollars a night in accommodation, then the tourist and GE tax on top – these same people will not go to hotels. They want their privacy, their kitchens for breakfast, the private pool area for their family. They will not take 4 or 5 hotel rooms and then try to find connecting doors and lockouts on the same floor, etc.

this is not how they travel, they do not use the suites or penthouses either (of which there is limited inventory anyway). Oahu would lose an entire market sector with this proposed bill. I am not sure what the bottom-line loss would be but can imagine substantial as these families travel and spend elsewhere.

**Retail Property:** We also have small retail outlets that we run eateries out of. These we both own ourselves and rent from landlords. With the proposed bill, I believe there will be less tourists spending money on the island, and therefore less locals with money in their pockets to spend, and I believe it would hurt our outlets and would need to consider reducing the number of commercial outlets we operate or close them down.

**Personal Property:** I have also purchased a unit in Condotel for myself and the use of my children and parents. We live on Kauai, and I need to travel over to Honolulu regularly for business. It is too costly to get a hotel room for each trip, AND I have OFTEN had it where hotel rooms were fully booked, and I was not able to get a room (ironically enough, Airbnb was the saving grace, but in times where hotel rooms are full, the rates for BNB are also too high). My parents are now in their 80's and are flying more often to Oahu to go to the hospitals and see the specialists in Honolulu. I bought this condotel unit also for my parents to use during their hospital visits. I also bought it to have the kids be able to fly over and go to the malls, the movies, the arcades, and to go to spring, summer, and fall camps (all things we do not really have on Kauai). I bought the unit at that particular property because it allows me unlimited access to the unit. I do not have it in the hotel rental pool (A) because I need it for many months each year, and I need the complete flexibility due to the hospital and work needs, and (B) it is not possible to make money in the hotel rental pool, even in 2019 (pre-covid) the 13 units I analyzed all lost money.

This new bill proposes to kick me out of my own unit, not allow me in unless I pay full rates and forces me to enter into an investment pool that would cause me to lose money every month, AND it offers no compensation for this. I have met people living at the property, some elderly people who moved in when it opened, making it the only home they have known in the last decade, are you going to evict them too? I want to keep the unit that I bought, and I want to keep it for all the reasons I mention, I do not want to be kicked out of it. And any compensation would have to be more than what I paid for the unit, as it cost a lot of time, effort, and money to arrive at the point of purchase, and it holds a lot of intrinsic value for us: location, property condition, amenities, security and safety, things that I deem important for myself, my kids, and my aging parents.

As a family we spend a lot of money in Honolulu when we come over, if we were kicked out of our own apartment, I would take those “tourist” dollars elsewhere, hurting restaurants, shops, and other small businesses in general on Oahu. I bought my condotel 100% for the sole purpose of my and the family’s own personal use, otherwise I would not have bought it, as it makes no financial sense as an investment if it’s in the hotel pool. This bill would prevent me from entering my own condo and force me to enter a negative cash flowing investment vehicle, while simultaneously devaluing my asset, and offering me nothing in return.

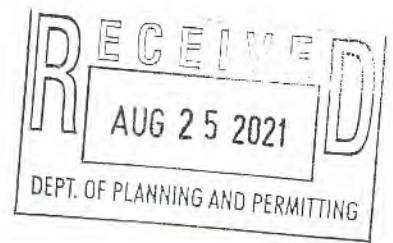
In reality, this does not even warrant being part of the proposed bill, our condotel has less than 1% owner occupied/owner use, so why even attempt to evict owners from their units / disallow them to access their units, when over 99% of the units are available for rentals. So there is not enough 'reward', in terms of additional online rooms, for the pain it will cause.

**In short**, this bill hurts me and landlords like me in every department. The hotel “power” driving this bill pushes me to want to sell everything on Oahu and take 100% of the funds off island – it hurts the small guys and almost all non-hotelier landlords in general. It proposes to evict me out of my own Condotel unit that I bought expressively to live in when on Oahu, which is simply not fair or right. It is my second home – and no grandfathering options seems against normal housing rights. I bought in a Condotel and not a hotel unit or other property, because of the rights they afford me. I think having no language for compensation (it is an eminent domain type of bill in this regard) or grandfathering in the bill makes it extremely unjust.

And what about the uber wealthy families that bought a \$12m condotel unit, in the Ritz for an example, do you evict them too? Tell them they have to rent it out in the hotel pool and can no longer visit their place? What does that even need to rent out at per night to make sense, and how many people that come here can afford those rates?

The bill proposes not only a monopolistic rule over all tourism for the hotels, but it is also one of the biggest heists in real estate history, whereby the operations and decisions are taken out of the hands of the actual owners and put, for free, into the hands of the hotel reservation systems – a large, mandated transfer of income with no consideration given in return.

The bill introduces itself or rather cloaks itself, blaming tourists for late party noises in the neighborhoods. If we are honest, most tourists that go to a nice residential neighborhood do not know anyone in Hawaii to party with (they are on holiday, i.e., away from home and friends and colleagues), and they are usually sleeping by 9pm for the first week of their trip, due to jet lag having flown in from vast distances in order to reach the islands). Meanwhile we locals have our friends and family over to watch the sports on the TV in the open garage or carport, drinking and eating with relatives, and having a great time – to blame big parties in residential areas on the tourists is a bit of a stretch.



**From:** Paisley Cipres [<mailto:paisley.cipres@corcoranpacific.com>]  
**Sent:** Wednesday, August 25, 2021 11:05 AM  
**To:** [info@honoluluodpp.org](mailto:info@honoluluodpp.org)  
**Subject:** Oral Testimony Registration for Sept 1 meeting

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Aloha I would like to register for oral testimony at the Sept 1st meeting in opposition of the proposed change to make any rental under 180 days a short term rental or transient vacation unit.

My name is Paisley Cipres Lenharr and my phone number is 808-295-4994

My testimony is as follows:

1. I am a property manager for Elite Pacific Properties, we see many different types of tenants in our properties with various lengths of lease terms. How can a property be a month-to-month rental under the proposed change? Month to month rentals are crucial to both tenants and landlords. It offers flexibility to everyone involved to not be tied down to a home for a lengthy period of time if not needed. We have tenants who are waiting on buying a property, extending their lease each month before they can find a suitable home to buy, while we also have tenants who are in a home that is **FOR SALE** on a month to month basis.
2. We fully support the enforcement of actions against short term rentals and think there should be proper enforcement of the 30 day rule. **THIS IS WHAT IS NEEDED.**
3. It is far too reaching to include all 30 day rentals under "short term" rentals and will devastate local property owners and tenants.

--



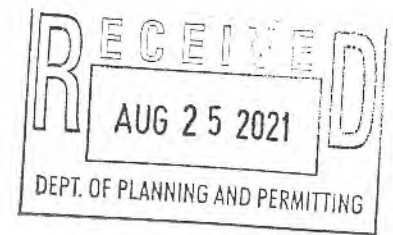
**Paisley K. Cipres**  
RA | Corcoran Pacific Properties  
808.295.4994 | [paisley.cipres@corcoranpacific.com](mailto:paisley.cipres@corcoranpacific.com)  
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-----Original Message-----

From: Heidi Kreul [<mailto:hkreul@gmail.com>]

Sent: Wednesday, August 25, 2021 11:39 AM

To: Planning Commission On September 1st Testimony <[info@honoluluodpp.org](mailto:info@honoluluodpp.org)>

Subject: Planning commission on September 1st Testimony

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Aloha,

I am writing in support of the "amendment to transient vacation unit rules" purposed by the City. Born and raised in Kailua, Oahu I have seen our residential neighborhoods transform in to transient tourist zones. Locals residents have been forced out of our neighborhoods as illegal short term rentals and Bnb overtake the community. The stories of the elderly Aunty who need to make ends meet is a farce. The reality is greed. Houses with multiple units. Each unit with the capacity to sleep 4 to 6 people. Bring upwards of 30 tourist to a house daily. This has a negative impact the quality of life for all neighbors..

When homes are purchased in residential neighborhoods we sign a contract which tells us the zoning and use of the property. The breach of these contracts should not be rewarded by allowing these illegal activities to continue.

The use of a 30 day contract for short term rental is also fraudulent. Often by rental management companies issuing with full knowledge that the renter will only be on premises for a shorter period then renting to another which breaks the zoning laws. The mandate of a 6 month lease before the month to month would help to deter from this illegal practice..

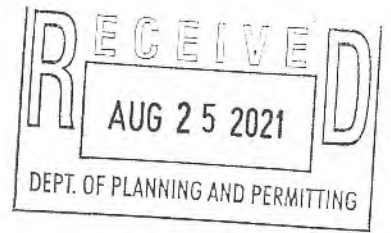
We desperately need homes for our residents, school teachers, firefighters, police officer, retail, hospitality workers need to be able to live and raise their children. Children need to be able to live in Hawaii to someday buy a home.

Tourist need to be in the resort zoned areas staying in the hotels to keep the hospitality industry going. Thank you all for taking steps to protect our community.

Me ka 'oia'i'o

Heidi Pascoe Kreul

[Hkreul@gmail.com](mailto:hkreul@gmail.com)



**From:** Realtor Jennifer Haole [<mailto:jenniferhaole@gmail.com>]

**Sent:** Wednesday, August 25, 2021 11:49 AM

**To:** [info@honoluludpp.org](mailto:info@honoluludpp.org)

**Subject:** I OPPOSE changing the definition of short-term rental operators from 30 days to 180 days !!!

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To whom it may concern,

I am a licensed Realtor in the State of Hawaii - in good standing with the Honolulu Board of Realtors - and actively licensed and operating full-time since 2017.

1. I fully support enforcement actions against illegal Short-Term Rental operators. There is no need to change the definition from 30 days to 180 days. We just need to properly enforce the 30 day rule.
2. As a licensed real estate professional, we frequently encounter people on Oahu who need rentals of less than 180 days. These uses include:
  - Families from out of State that are taking care of loved ones
  - People moving to Oahu and looking to buy a home
  - Families who are waiting for their new home to complete construction
  - Government contract workers
  - Traveling nurses
  - Military PCS while looking for a home to buy
  - Home Sellers who need to rent until they find a new property
  - Film and TV crews while on a shoot
3. It is overly broad to include all rentals 30 days or greater as Short-Term Rentals and will harm many local property owners as well as the Tenants that stay in their homes.

Mahalo in advance for considering this testimony and DOING WHAT IS RIGHT for the people of Hawaii!

--



## Jennifer Haole

RS-79144

EXP Realty

808.312.7556

[www.JenniferHaole.com](http://www.JenniferHaole.com)



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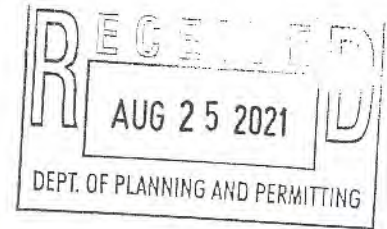
**KAWAGUCHI**

GROUP

MEGA ICON TEAM

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**From:** Richard Kemmer [mailto:richardkemmer24@gmail.com]  
**Sent:** Wednesday, August 25, 2021 12:21 PM  
**To:** Takara, Gloria C; Elizabeth Marsiehazen  
**Subject:** 08/26/2021 Planning Meeting Oral Response



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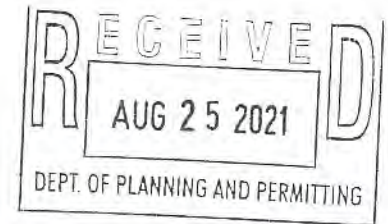
**From:** Richard Kemmer ([richardkemmer24@gmail.com](mailto:richardkemmer24@gmail.com))  
**Sent:** 08/25/2021  
**To:** Takara, Gloria C.  
**Subject:** Opinion on chapter 21 ROVH 1990 proposed revision  
(Zoning and Planning Meeting Agenda 08/26/2021)

Honorable members of the Planning Commission:

I completely agree that excessive tourism is impacting the ecosystem of Hawaii and challenging our existing infrastructures (water, sewage, drainage, roads, transportation, etc.). The lions share of housing for those tourists continue to be the high-rise hotels that continue to be constructed putting this burden on the general population to unfairly support them while they are here. This proposal does not address this issue but instead puts the focus on a few homeowners that are economically disadvantaged and need to rent their homes just to make ends meet. Let's not be distracted by this frivolous discussion.

This report fails to perform a comparative analysis between the STL units vs. the hotel units (how many occupants/year for each group; taxes collected from each group, etc.). Neither does it explain how many taxes and fees are being collected from the STL's and hotels and how much of that is being spent on our roads, water and other infrastructure projects. There is no rational basis for this discrimination of the small home owner and I would hope that we place a moratorium on hotel construction until our planning committees can come up with plans to support their needs. I strongly oppose this proposal.

**From:** The Dachtler Family [mailto:thedachtlers@gmail.com]  
**Sent:** Wednesday, August 25, 2021 12:41 PM  
**To:** Takara, Gloria C  
**Subject:** Opposition to proposed DPP change to TVUs



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Aloha,

My husband and I own property in Ko Olina in the A1 Resort Area.  
We strongly oppose the proposed changes to the TVU requirements.

Even though we are in an A1 area, our HOA limits our rentals to 30+ days. We primarily rent 1-3 months to snowbirds, relocating corporate employees and a LOT of travel medical professionals. We've also had several rentals for military relocations and military members that are receiving cancer treatment at Tripler hospital.

If this bill passes, we will be forced to remove our rental from leases of less than 180 day stays as the costs to continue renting for 1-5 months are exorbitant for our type of rental. I believe when the costs were proposed they must have been targeted at properties that rent nightly, thus receiving a much higher rate. Our rentals are monthly or multi-month and there is no way we can absorb the approx \$1,500/month in costs directly attributed to this change as follows:

\$5,000 application fee (\$2,500 annual renewal fee)  
4x the property taxes (.35% for residential vs 1.39% for Resort)  
\$1-3K/annually for a \$1 million commercial insurance policy  
For our properties it totals about \$18k/year or \$1500/month.

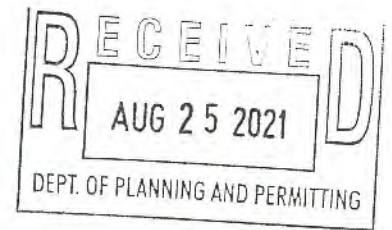
If all of the properties like ours that are 30+ day furnished rentals go away, where in the world will this type of traveler go? They can't sign a 6+ month lease and certainly don't want to (and really can't) stay in a hotel for that period of time. It is just insane to require 6 month stays. People staying for more than 30 days are not here to "party", they are here to work, go to school, receive or provide medical treatment or in service to our country.

Speaking of military members, what happens if a military member (or someone else) intends to stay for 6+ months and signs a 6 month lease and then their orders change? As a landlord, I'm required by law to let them out of their lease. Would I then be in violation of this law? What about taxes? I won't have a TVU # any more so I wouldn't even be able to remit taxes if I tried to. In the current model, I did have a military member that had a 6+ month lease and had a change of station and they retroactively paid the transient occupancy tax and I remitted it. In the new model, there is no accommodation made for situations like this.

Finally, I am not an attorney, but I also think requiring 180 night stays and a 2 person/bedroom max may run afoul of FHA guidelines and the equal protection clause as it pertains to familial status. Why is it acceptable for a hotel to allow 4 people in a 400 person room but TVUs can't host 4 people in a 900 square foot 1bedroom apartment? I will be sending this information on to HUD and the ACLU for their feedback.

Sincerely,  
Elizabeth Dachtler

**From:** Amanda van Weert [<mailto:amanda.vanweert@elitepacific.com>]  
**Sent:** Wednesday, August 25, 2021 1:28 PM  
**To:** [info@honoluludpp.org](mailto:info@honoluludpp.org)  
**Subject:** oppose changing short term rental from 30 day rentals to 180 days



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To whom this may concern,

As a licensed real estate professional owning a property management company in Hawaii, there is a continued need for clients to secure a rental for less than 180 days. As an example

- People moving from the mainland looking to purchase
- Families awaiting finalization of home construction
- Families temporarily displaced because of floating or similar unfortunate circumstances
- Traveling nurses (now more so than ever)
- People who sold their home and need temporary housing until they purchase or rent another property
- Families from out of State taking care of loved ones
- People in between rental agreements

We fully support enforcement against illegal STVR rental operators, but to change the definition from 30 days to 180 days will harm many property owners as well as tenants needing housing.

I hope these points are taken under consideration when discussing potential changes.

With Aloha,



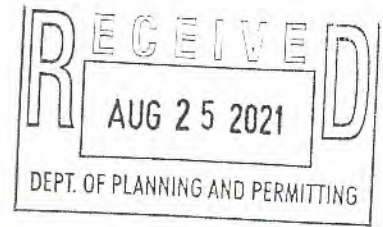
Amanda van Weert, RB-22549  
Property Management, Elite Pacific, LLC  
808.334.0548 | [amanda.vanweert@elitepacific.com](mailto:amanda.vanweert@elitepacific.com)  
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**From:** Nick Benoit [<mailto:nick.benoit@elitepacific.com>]  
**Sent:** Wednesday, August 25, 2021 1:36 PM  
**To:** [info@honoluluodpp.org](mailto:info@honoluluodpp.org)  
**Subject:** oppose changing short term rental from 30 day rentals to 180 days



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To whom this may concern,

As a licensed real estate professional owning a property management company in Hawaii, there is a continued need for clients to secure a rental for less than 180 days. As an example

- People moving from the mainland looking to purchase
- Families awaiting finalization of home construction
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- People who sold their home and need temporary housing until they purchase or rent another property
- Families from out of State taking care of loved ones
- People in between rental agreements

We fully support enforcement against illegal STVR rental operators, but to change the definition from 30 days to 180 days will harm many property owners as well as tenants needing housing.

I hope these points are taken under consideration when discussing potential changes.

With Aloha,



Nick Benoit, RS-74367  
Property Manager, Elite Pacific  
808.334.0548 | [nick.benoit@elitepacific.com](mailto:nick.benoit@elitepacific.com)  
[www.elitepacific.com](http://www.elitepacific.com)



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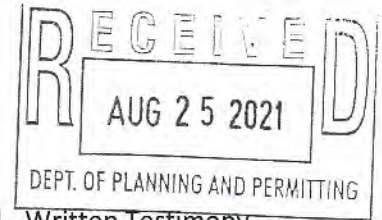
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**From:** [whitaker.brandon@gmail.com](mailto:whitaker.brandon@gmail.com) [mailto:[whitaker.brandon@gmail.com](mailto:whitaker.brandon@gmail.com)]

**Sent:** Wednesday, August 25, 2021 1:58 PM

**To:** [info@honoluludpp.org](mailto:info@honoluludpp.org)

**Subject:** Proposed Amendments to Chapter 21 (Land use Ordinance [LUO]), Revised - Written Testimony



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Aloha,

I want to thank the DPP for allowing public comment on the proposed changes to the ROH relating to transient accommodations.

I disagree with updating the definition of B&Bs and TVUs to a duration of less than 180 consecutive days. From my personal experience the issues relating to TVU and B&Bs stem from the inability to enforce the current 30-day minimum duration. Most transient visitors to the islands stay for less than two weeks and the most popular vacation length tends to be exactly 7 days. Enforcing the current law to disallow this type of vacationer from staying in a residential area should be the focus and priority of any changes to the current rules. Disallowing 30-day rentals may reclassify all rentals on a "Month-to-Month" basis as illegal. When acquaintances decide to move to Oahu or current Oahu residents need temporary accommodations a six-month (180 day) rental is impractical.

Furthermore, if the intent of this change is to limit the number of visitors to Hawaii we need to encourage fewer, higher paying visitors. An increase in the TAT or other relevant taxes could be a solution that we as property owners can pass onto our clients. By changing the minimum duration of a B&B or TVU we are preventing visitors from visiting Oahu; however, the other islands will most likely see an increase in vacationers. This places an undue burden on all taxpayers of Honolulu County because the revenue stream brought by previous vacationers now has to be generated through current residents.

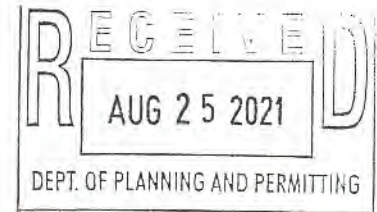
Let us discuss first how to enforce the current 30-day minimum and if this does not result in the desired results consider a longer minimum. As a new homeowner of a condominium I am no longer able to afford the carrying costs for the unit if I'm disallowed from renting for four (4) months a year and I will have to decide what to do when the property value decreases drastically due to this rule. I am disappointed that current residents who may have purchased property due to existing laws are now facing undue hardship and burden.

Please consider eliminating the section of the bill relating to increasing the minimum duration of rentals and determine a method to enforce the current rules.

Mahalo,

Brandon Whitaker

**From:** Kimo Smigielski [<mailto:kimo@portfoliohawaii.com>]  
**Sent:** Wednesday, August 25, 2021 2:42 PM  
**To:** [info@honoluluudpp.org](mailto:info@honoluluudpp.org)  
**Subject:** Do not change the definition of short term rentals to 180 days



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To Whom It May Concern,

I have been a licensed Realtor in the State of Hawaii for 21 years and have been managing both short-term and long-term rentals on Oahu for 17 of those years. My short-term rental business has always been 30-day minimum rentals and I have found this to be a wonderful niche market that helps tenants in a multitude of ways. It allows guests to embrace the local culture, be a part of the community they are staying in and feel settled versus being a tourist. Many of my clients have been visiting Hawaii for decades and chose to stay longer to be a part of the community, they give back in many ways that nightly visiting tourists never do. Many of these 30-day minimum visitors prefer to stay for 2-3 months to determine if Hawaii will make a suitable home for them to retire in, invest in and/or relocate to be a contributing member of society here. Allowing these potential kama'aina to experience living here in a residential lifestyle versus a visiting, tourist lifestyle is paramount to keeping intelligent, productive and talented transplants coming to Hawaii

The State of Hawaii talks about needing to diversify away from only relying on Tourism and Military for our economic lifeline. We talk about needing to attract educated, intellectual people to come back to Hawaii to combat the "brain drain". Well, those people need to spend time in Hawaii and not cramped in a hotel room to feel like they belong. Pushing these types of visitors (future residents) into cramped, hotel quarters doesn't make a good first impression and further reiterates our incoherent message of attracting talented, intelligent people back to Hawaii but instead stresses that we are focused on tourists.

1. We fully support enforcement actions against illegal Short-Term Rental operators. There is no need to change the definition from 30 days to 180 days. We just need to properly enforce the 30 day rule.

2. As licensed real estate professionals, we frequently encounter people on Oahu who need rentals of less than 180 days. These uses include:

- Families from out of State that are taking care of loved one
- People moving to Oahu and looking to buy a home
- Families who are waiting for their new home to complete construction
- Government contract workers
- Traveling nurses
- Military PCS while looking for a home to buy
- Home Sellers who need to rent until they find a new property
- Film and TV crews while on a shoot

3. It is overly broad to include all rentals 30 days or greater as Short-Term Rentals and will harm many local property owners as well as the Tenants that stay in their homes.

I have personally met and talked with over hundreds of guests/visitors and eventual clients that started by renting for a few months here in Hawaii and have either purchased and relocated, purchased as a 2nd home with the eventual plan to retire here as well as those that simply needed a 3-4 month rental for personal reasons. A family displaced by a fire can't be expected to live in a hotel room or cramped quarters while their home is being repaired. We experienced flooding recently from rains and those families displaced for months due to clean-ups also needed temporary rentals where a resort zoned, hotel size room wouldn't be conducive.

Before you decide to take away these options for local families and visitors alike, perhaps everyone voting on this measure should try to live in a hotel room for 3-4 months with their families, imagining what it would be like if a fire or flood-impacted their families and they no longer could find temporary housing in a larger property.

Thank you,

**Kimo Smigielski, R, CRS, GRI, ABR, SRES, CAPS, e-PRO**

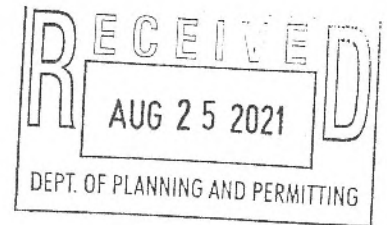
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-----Original Message-----

From: cathy watson [<mailto:catherinewatson@yahoo.com>]

Sent: Wednesday, August 25, 2021 5:37 AM

To: [info@honoluluodpp.org](mailto:info@honoluluodpp.org)

Subject: TVU Rules

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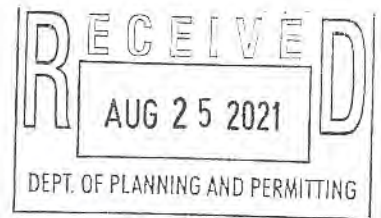
As a resident of Kailua I'm in favor of the proposed TVU rules. Sincerely, Jeffrey Polovina, 196 Pauahilani Pl. Kailua 96734

**From:** Scarborough, Ryan [<mailto:RScarborough@wc.com>]

**Sent:** Wednesday, August 25, 2021 12:09 AM

**To:** [info@honoluluudpp.org](mailto:info@honoluluudpp.org)

**Subject:** Written Testimony in Opposition to Proposed Short-Term Rental Ordinance



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Aloha Honolulu Department of Planning and Permitting and City Council,

I wanted to share my views on the proposed amendments to the City's ordinance to redefine short-term rentals from less than 30 days to less than 180 days, which is proposed for review by the City Council on September 1, 2021. I ask that you consider this email as written testimony submitted in connection with the proposed changes to the City's ordinance on short-term rentals.

My wife and I own a home in Hawaii that we visit each year for an extended summer stay (usually 4-6 weeks). We used to live in Hawaii in the late 1990s, and we intend to move back when we retire within the next ten years. When we are not there, our property management company oversees monthly transient vacation rentals. We use the funds from those rentals to pay for maintenance and help us cover the mortgage on the home. We have been conscientious about complying with local ordinances, particularly the 30-day rental requirement. Over the years our rental periods have ranged from one month to seven months, depending on the needs of the guests. We have never done shorter rental periods, and we have never had a complaint from our neighbors.

I ask that the proposed change from 30 days to 180 days to the definition of short-term rental be rejected, as it unfairly punishes homeowners such as myself who have complied with the existing ordinance and who utilize the income from short-term rentals to help offset home expenses ranging from maintenance to mortgage. It is unfair to make such a fundamental change, which has a substantial impact on homeowners who rely on this income source, while simultaneously not offering any opportunity for homeowners to obtain any certificate exempting them from these requirements. In my view, the proposed legislation sweeps far too broadly and will negatively impact countless homeowners who rely on this important source of income and who have conscientiously followed existing rules related to short-term rentals. It unfairly punishes many homeowners such as myself who have responsibly adhered to the rules but yet face the loss of an important source of income.

In my view, making such a dramatic change just two years after the Council enacted a new policy on short-term rentals is unwarranted. Not enough time has gone by to determine the effectiveness of the current policy, which itself constituted a significant shift in approach. Rather than redefining the definition of short-term rental, I think the Council should devote greater resources and attention to enforcement of the existing policy on short-term rentals. Allocate more funds; authorize greater enforcement penalties; crack down on homes whose online listings do not comply with the existing ordinance. But please do not punish the vast majority of homeowners who adhere to the requirements of the existing ordinance. To do otherwise is to take away valuable and important rights homeowners have. And it will do little, if anything, to achieve the stated objective of this legislation. The problem is not with the visitors who stay in these properties; their numbers are small and they respect the neighborhood. The problem is with the companies that bring busloads of visitors from Waikiki and other resort areas to places on the island that heretofore have been undiscovered.

Mahalo for your consideration,

**Ryan Scarborough**

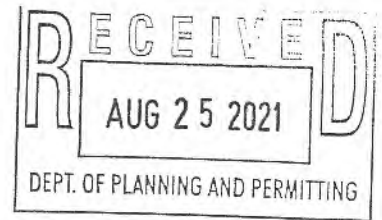
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-----Original Message-----

From: Jodi Lam

Sent: Wednesday, August 25, 2021 6:33 AM

To: [info@honoluludpp.org](mailto:info@honoluludpp.org)

Subject: Proposed Amendment to Chapter 21 (LUO), Revised Ordinance of Honolulu 1990, as Amended, Relating to Transient Accommodations

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

Meeting date and time: September 1, 2021. 11:30 a.m.

To: Planning Commission Chair Brian Lee and Members of the Planning Commission

We fully support the proposed amendments to Chapter 21 (LUO), Revised Ordinance of Honolulu 1990, as amended, Relating to Transient Accommodations

We are longtime Hawaii residents, born and raised in the Islands and have, and are, personally experiencing the deterioration of our residential communities being inundated by short term vacation renters (STV). The supporters and operators of STVs must be reminded that our land use zoning laws do not permit this, and thus this commercial enterprise is illegal.

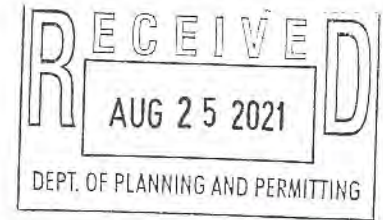
In our case STVs have turned over as often as every 3 days. There is no onsite parking and consequently their cars are constantly blocking our driveway, making it difficult and frankly dangerous for us, especially if an emergency arises. Enforcement has been impossible, even though DPP has tried for many years. The owner advertises as a 30 day minimum stay and requires all STVs to sign an unenforceable 30 day lease agreement which is never adhered to. This agreement is shown to the DPP inspectors. In some cases, the STVs claim that they are friends of the owner, and are vague on the daily rate they pay.

The STVs rise with the dawn and party thru the evening, as they are on vacation. We, on the other hand, need to work the next day.

We have read thru the proposed amendments and strongly feel it will close many of the loopholes in the current system.

Jodi Lam and Tim Takaazu

**From:** Roman Kuzmenko [mailto:kuzmenkor@gmail.com]  
**Sent:** Wednesday, August 25, 2021 2:47 PM  
**To:** Takara, Gloria C  
**Subject:** TVUs in Honolulu



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Dear Gloria,

I hope you wish to preserve Hawaiian nature and wish prosperity to Hawaii population as much as I do.

I'd like to point out simple math facts behind both of those goals.

1. To preserve the nature, less tourists need to be in Hawaii each day and they need to be localized in a minimum number of locations (mass transit and electric buses instead of personal cars).
2. To guarantee prosperity of Hawaiian people, as many residents need to be employed as possible per each tourist.

In order to achieve the first, the total number of TVUs and hotel rooms need to be limited and they need to be bound to a small number of locations (like Waikiki). It can be achieved by reducing the total number of TVUs. But it can also be achieved by getting rid of very old and tall (about to flip) hotel buildings that are built on the problematic Waikiki soils.

In order to achieve the second, you want as many TVU rooms and as little hotels rooms as possible as hotels are more efficient. They hire less people per tourist. Yes, they pay more per employee. But the market would equalize the pay to level that is required anyway. The only thing that can prevent the market from lifting up the employee pay is the agreements between the hotel chains. Agreements like that are not possible among thousands of individual TVU owners. Corporate TVU owners is the worst of both worlds and it does require regulation (adjust the criteria to require them to become hotels).

As someone who worked for Uber in Silicon Valley, first, I've seen a lot of ruthless facts proving that braking up big businesses makes more people satisfied. Second, I know that Silicon Valley folks wouldn't work on something that makes people unhappy: they have a lot of options who to work for. If you only let hotels influence your decision and you do not have any Airbnb representation at the table, then such a table works for the hotels interests only.

As a current employee of Google, I'd like share some insider sentiment towards remote work in Tech industry: it's a temporary illusion. Every single one goes back to office in 2022. There will be no remote workers in Hawaii. There will be no tech offices in Hawaii. Only tourists and military. Whether it's Hawaii, San Diego or Florida, it's a perfect weather, a comfort zone, and nothing grows in a comfort zone. Just like in past centuries, there will be nothing else in Hawaii other than military and tourism.

Please, don't ruin tourism and let it support as many residents as possible.

Please, preserve small business and individual TVUs in Waikiki, push back on hotels and address the real dangers: corporate TVU owners and price dumping by management companies

(deregulate or re-regulate TVU market rules, prevent management companies from requiring to let them market/sell the TVUs themselves).

I'm sure you are getting a lot of emails.

Sorry for a long one. I really tried to concentrate as much useful points per line of text as possible.

I hope it helps.

Thank you

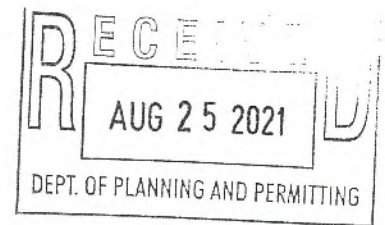
Roman

**From:** [dana86@hawaiiintel.net](mailto:dana86@hawaiiintel.net) [mailto:[dana86@hawaiiintel.net](mailto:dana86@hawaiiintel.net)]

**Sent:** Wednesday, August 25, 2021 3:20 PM

**To:** [info@honoluluudpp.org](mailto:info@honoluluudpp.org)

**Subject:** Planning Commission September 1



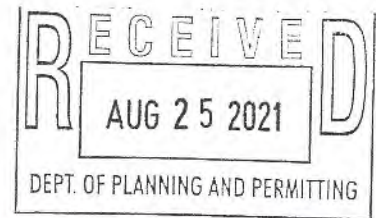
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No new permits issued for vacation rentals.

We also must limit the number of visitors that come to Hawaii on a maximum number of daily arrivals.

--

Mahalos, John Miller- 407 Keaniani St #A Kailua hi 96734  
808-722-9555



**From:** Keolani Keawe [<mailto:keolani@kouhalerealty.com>]  
**Sent:** Wednesday, August 25, 2021 3:30 PM  
**To:** [info@honoluluodpp.org](mailto:info@honoluluodpp.org)  
**Subject:** Keep Long Term Rental at 30 Days or More

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To Whom It May Concern,

Coming from a family who has 13 low income long term rentals and 9 long term rentals in West Hawai'i I feel it is important to keep the definition at 30 days or more. There are many times when tenants have asked for month to month with the intention of staying as long as possible, We want our tenants to stay long term but we also want them to be happy where they live.

Many times tenants have just re-located here from other parts of the island, outer island or mainland. They need time to rent and adjust to the area before they settle down long term. Researching schools, drive time to work etc are all factors they won't know until they can actually get here and live a little while.

Other reasons include separation or divorce, travelling nurses and other short term jobs (this is common), and Buyers who we encourage to live in the area while looking rather than buy sight unseen to have a home. Another reason is college. Many students like to travel home during summer or Christmas and having to pay for an empty apartment is ludicrous to avoid a silly law.

Keeping the definition will help tenants more than it helps landlords.

--

Mahalo nui loa,

**Keolani R. Keawe** | RB-20853  
Broker Owner  
e-PRO | CNE- Certified Negotiation Expert

**Phone:** 808.896.5034

[www.KouHaleRealtyLLC.com](http://www.KouHaleRealtyLLC.com)

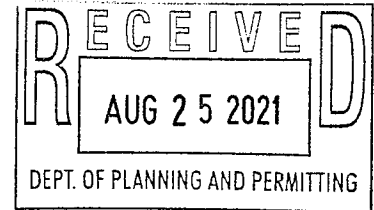
**Kou Hale Realty LLC**  
81-6587 Mamalahoa Hwy C202 Kealahou, HI 96750

**HO'OMOE WAI KĀHI KE KĀO'O ~**

Live in harmony with other people and the world around you.

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**From:** Darla [mailto:d.isales@hawaiiintel.net]  
**Sent:** Wednesday, August 25, 2021 5:32 PM  
**To:** [info@honoluluodpp.org](mailto:info@honoluluodpp.org)  
**Subject:** Short Term Rentals Change to 180 days



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Aloha Sirs,

I'm writing as I just found out that the DPP has submitted a report to the Planning Commission with proposed changes to the definition of Short Term Rentals or Transient Vacation Unit from 30 days to 180 days. Short Term and Transient Units were designed to be an alternative to a hotel.

**I do not support** this change as I have personally used a rental for 33 days during our home renovation. Short Term / Transient rentals are designed for vacation rentals, not Kamaaina needing additional temporary housing.

I know of friends and family who have used rentals for various reasons, not for vacation, i.e. waiting to close on a new home purchase, out of state family here to care for loved ones, etc. I currently rent to a DoD worker who is on contract for 10 months.

By changing the term to 180 days will over burden both our kamaaina renters and local property owners already facing difficulty in today's crisis.

In short, I believe the proposed changes are not beneficial to local renters and property owners. Instead, proper enforcement of illegal Short Term Rentals should be pursued.

Please feel free to contact me with any questions.

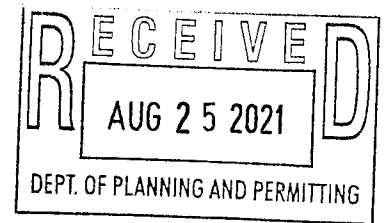
Thank you for your time.

Aloha,

Darla Arakaki, RA  
Ampac Realty, LLC Lic# RS-66973  
98-820 Moanalua Rd 15-1 #382  
Aiea, HI 96701

Cell: 808-753-7480

**From:** Jon Mann [mailto:[jonmann808@gmail.com](mailto:jonmann808@gmail.com)]  
**Sent:** Wednesday, August 25, 2021 6:47 PM  
**To:** [info@honoluludpp.org](mailto:info@honoluludpp.org); Jon S. Mann <[jonmann808@gmail.com](mailto:jonmann808@gmail.com)>  
**Subject:** BAD IDEA - Changing Short Term Rental Definition Less than 30 days to less than 180 days



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Aloha.

Please know that Changing Short Term Rental Definition Less than 30 days to less than 180 days.....IS A BAD IDEA.....How about simply truly enforcing the existing laws of 30 days or less rather than switching to a 180 day period that will be even harder to enforce.....PLEASE DO NOT MAKE THIS CHANGE.....Let common sense prevail.

Cordially,

**Jon S. Mann**

REALTOR-BROKER, RB-19922

**Principal Broker / Owner / MBA**

**Exceptional Homes Hawaii**

1888 Kalakaua Ave, Suite C-312

Honolulu, HI 96815

Company License RB- 22066

[JonMann808@gmail.com](mailto:JonMann808@gmail.com)

[ExceptionalHomesHawaii.com](http://ExceptionalHomesHawaii.com)

**808-728-1230**

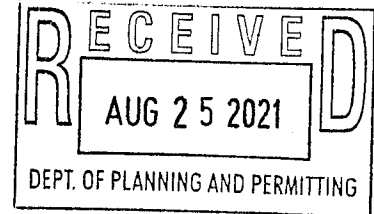
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**From:** popp203 [mailto:popp203@gmail.com]  
**Sent:** Wednesday, August 25, 2021 7:14 PM  
**To:** [info@honoluludpp.org](mailto:info@honoluludpp.org)  
**Subject:** Short term rentals in residential neighborhoods



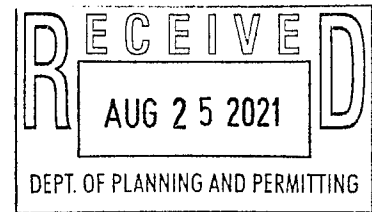
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Aloha, Please support the change for short term rentals residential neighborhoods to 90 days to help stabilize our local neighborhoods . Rentals shorter than 90 days belong on resort zoned properties.

Thank you,  
Robert Chang  
[popp203@gmail.com](mailto:popp203@gmail.com)

Sent from my T-Mobile 4G LTE Device

**From:** Juan Ramos [mailto:cavabar@gmail.com]  
**Sent:** Wednesday, August 25, 2021 11:36 PM  
**To:** [info@honoluluudpp.org](mailto:info@honoluluudpp.org)  
**Subject:** Short term rental



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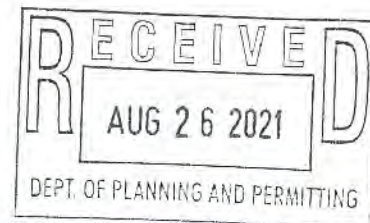
I would like to formally state my opposition to the extension of the short term rental to 180 days and over. Already at 30 days and more, this will greatly reduce the pool of possible renters to only those that plan to stay for only but the longest periods.

This will further cause undue burden on home owners like me who require rental income to pay taxes, maintenance, financing, and other holding costs.

Homeowners who rent for the current 30 days or longer are being vilified by the hotel industry lobbyists while we perform an essential function to the economy of Oahu. We pay taxes and also employ people in the course of our rentals. It is not only hotels that fulfill a function and they should not be the only ones who should be allowed to have economic rights.

The city only recently enacted the short term 30 days or more restriction and once again wants to tighten the noose on tax paying homeowners? Why the constant economic restrictions on homeowners? Are hotels the only ones to be listened to? They want more business for themselves. Please consider that 30 days is more than enough to restrict the short term rentals on the island. Putting further limitations essentially is economically restricting homeowners to please the powerful, vocal hotel lobby.

**From:** The Dachtler Family [mailto:thedachtlers@gmail.com]  
**Sent:** Thursday, August 26, 2021 7:05 AM  
**To:** Takara, Gloria C; info@honoluluapp.org  
**Subject:** Re: Opposition to proposed DPP change to TVUs



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adding the info email as shown in the meeting publication notes.

On Wed, Aug 25, 2021 at 3:40 PM The Dachtler Family <[thedachtlers@gmail.com](mailto:thedachtlers@gmail.com)> wrote:

Aloha,

My husband and I own property in Ko Olina in the A1 Resort Area.

We strongly oppose the proposed changes to the TVU requirements.

Even though we are in an A1 area, our HOA limits our rentals to 30+ days. We primarily rent 1-3 months to snowbirds, relocating corporate employees and a LOT of travel medical professionals. We've also had several rentals for military relocations and military members that are receiving cancer treatment at Tripler hospital.

If this bill passes, we will be forced to remove our rental from leases of less than 180 day stays as the costs to continue renting for 1-5 months are exorbitant for our type of rental. I believe when the costs were proposed they must have been targeted at properties that rent nightly, thus receiving a much higher rate. Our rentals are monthly or multi-month and there is no way we can absorb the approx \$1,500/month in costs directly attributed to this change as follows:

\$5,000 application fee (\$2,500 annual renewal fee)  
4x the property taxes (.35% for residential vs 1.39% for Resort)  
\$1-3K/annually for a \$1 million commercial insurance policy  
For our property it totals about \$18k/year or \$1500/month.

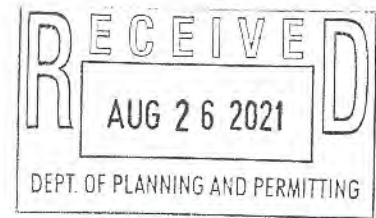
If all of the properties like ours that are 30+ day furnished rentals go away, where in the world will this type of traveler go? They can't sign a 6+ month lease and certainly don't want to (and really can't) stay in a hotel for that period of time. It is just insane to require 6 month stays. People staying for more than 30 days are not here to "party", they are here to work, go to school, receive or provide medical treatment or in service to our country.

Speaking of military members, what happens if a military member (or someone else) intends to stay for 6+ months and signs a 6 month lease and then their orders change? As a landlord, I'm required by law to let them out of their lease. Would I then be in violation of this law? What about taxes? I won't have a TVU # any more so I wouldn't even be able to remit taxes if I tried to. In the current model, I did have a military member that had a 6+ month lease and had a change of station and they retroactively paid the transient occupancy tax and I remitted it. In the new model, there is no accommodation made for situations like this.

Finally, I am not an attorney, but I also think requiring 180 night stays and a 2 person/bedroom max may run afoul of FHA guidelines and the equal protection clause at it pertains to familial

status. Why is it acceptable for a hotel to allow 4 people in a 400 square foot room but TVUs can't host 4 people in a 900 square foot 1bedroom apartment? I will be sending this information on to HUD and the ACLU for their feedback.

Sincerely,  
Elizabeth Dachtler



**From:** Naiditch, Lyuba [<mailto:LyubaN@cbpacific.com>]  
**Sent:** Thursday, August 26, 2021 3:31 AM  
**To:** [info@honoluludpp.org](mailto:info@honoluludpp.org)  
**Subject:** We need 30-day short term rentals!

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Aloha,

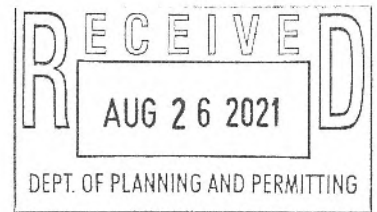
As a Realtor I would like to oppose a proposed bill against 30-day short term rental. Here are a few points:

1. We fully support enforcement actions against illegal Short-Term Rental operators. There is no need to change the definition from 30 days to 180 days. We just need to properly enforce the 30 day rule.
2. As licensed real estate professionals, we frequently encounter people on Oahu who need rentals of less than 180 days. These uses include:
  - Families from out of State that are taking care of loved ones
  - People moving to Oahu and looking to buy a home
  - Families who are waiting for their new home to complete construction
  - Government contract workers
  - Traveling nurses
  - Military PCS while looking for a home to buy
  - Home Sellers who need to rent until they find a new property
  - Film and TV crews while on a shoot
3. It is overly broad to include all rentals 30 days or greater as Short-Term Rentals and will harm many local property owners as well as the Tenants that stay in their homes.

I personally have foreign and mainland clients with their elder parents living on Oahu. They constantly come to Hawaii to take care of their parents. They always look for a 30-60 day rental to stay. Hotel stay is not always comfortable and it gets very expensive to stay in hotel for this duration. Prohibiting 30-day rental will bring hardship to many Hawaii families.

Lyuba Naiditch, RS-76527  
Coldwell Banker Realty  
Mobile: 808-859-8176  
Email: [LyubaN@cbpacific.com](mailto:LyubaN@cbpacific.com)  
Property search: [www.ParadiseHomesOahu.com](http://www.ParadiseHomesOahu.com)

**\*Wire Fraud is Real\*. Before wiring any money, call the intended recipient at a number you know is valid to confirm the instructions.** Additionally, please note that the sender does not have authority to bind a party to a real estate contract via written or verbal communication.



-----Original Message-----

From: lambo5oh [mailto:lambo5oh@gmail.com]

Sent: Thursday, August 26, 2021 8:22 AM

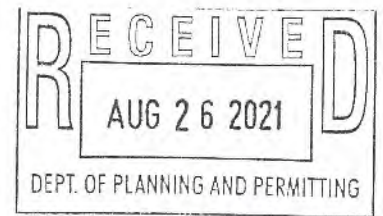
To: Takara, Gloria C

Subject: STR ordinance draft

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Dear Sir: I own a vacation rental property at 1551 Ala Was Blvd., The Watermark. Our minimum rental period is 30 days. I rent to a variety of folks from mainland visitors to local residents seeking temporary living quarters. I pay both GET taxes and the hotel transient tax. Will I be impacted if this legislation is passed?

James Lambert  
3020 Noela Drive  
808-778-4756



**From:** BRYAN D TAYLOR [mailto:BPBAZN@msn.com]  
**Sent:** Thursday, August 26, 2021 8:40 AM  
**To:** Takara, Gloria C  
**Subject:** Re: Committee on Zoning and Planning Proposed amendments to STR's

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Dear City Council Members,

We understand the legislation proposed is designed to protect our neighborhoods and eliminate illegal vacation rentals, which we support. However, it appears, as it is currently written, that it will also punish those who have complied with the rules in place for legal vacation rentals. As owners, we pay high TAT and GET taxes, which supports our island's O'hana. We are grateful that we are able to provide that.

Does the city council also support references in this legislation that would force non-condotels in the resort zoned areas of Waikiki, Kuilima Estates at the N. Shore and other areas to be forced to go under a local Hotels reservation system and lose our rights to manage our own properties? That is unconstitutional, illegal and takes away our rights as individual property owners.

Please remove these two parts that are unfair to legal vacation rental owners. Otherwise, the city council is colluding with the hotel industry to unfairly punish legal vacation rental owners.

Thank you for your time and for your support in this matter.

Bryan and Pam Taylor  
801-598-5760  
TAT Tax ID: TA-002-221-1072-01

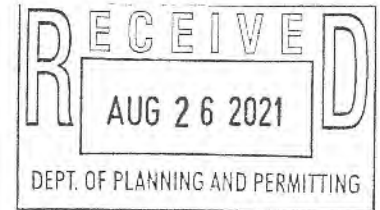
-----Original Message-----

From: Laurie Riebeling [<mailto:lauriemtam@att.net>]

Sent: Thursday, August 26, 2021 8:52 AM

To: [Info@honoluluodpp.org](mailto:Info@honoluluodpp.org)

Subject: Proposed changes for short term rentals



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Dear Depart of P & P,

I have been a long time owner of a unit in The Waikiki Banyan, a large condominium in the quiet part of Waikiki. I have also been a full time resident of Oahu, years ago, so I feel like I have a finger on the pulse of the island. As well as the changes that have occurred when I make my visits every year.

I have read The Draft of the proposed changes in the Short Term rental "industry."

What I come away with, and read and reread, was the impact you feel that short term rentals have on communities....residential communities. I understand how much impact that renting out your "Ohana" unit in your backyard, has on your neighbors. Whether its stress with.... parking, noise, moving a long term local tenant out, and many other issues, it impacts the neighbors in ways that the owners don't always acknowledge or see. And that is occurring all over the world in neighborhoods, whether its Costa Rica or Kauai. So I do believe that communities do have to come up with common sense rules that look out for the community as a whole.

But buildings like The Banyan have always been run from day one as multi use properties. And it has worked for everyone. Some units are primary residences for the owners. Some others are rented on long term 1 year leases. Some units, the owners have as 2nd homes, and they are left empty the rest of the time. And others like mine are rented on a short term basis. The mix works beautifully. It doesn't need or require a change. That is what has always worked in Waikiki....a mix of hotels and short term condominiums. (And we all park IN our building, and are not impacting those around us.)

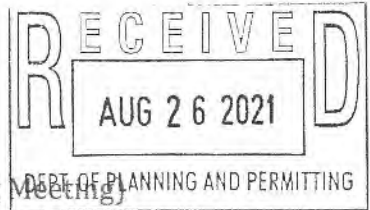
So I believe that restricting building such as The Banyan, because of issues in Hawaii Kai or The North Shore, isn't fair or equitable. Especially when there is NOT a problem to be fixed.

Mahalo for excepting my comments. And as a fully vaccinated person, I look forward to my 3rd stay in my unit very soon, to enjoy The Isle.

Best,

Laurie Riebeling

415-609-3442



Written Testimony of Dr. Stephen M. Kofsky (Sept 1, 2021 DPP Planning Meeting)

Dear Director Uchida, DPP Drafting Attorneys, and Others Involved in the Drafting of "A Bill For An Ordinance" Relating To Transient Accommodations,

Firstly, let me say I am extremely grateful that you have taken the step to halt the further ravaging of our precious communities by drafting this encompassing legislation. I am also hopeful that it will have its intended effect. With my input here I will try to offer suggestions for finetuning the proposed Ordinance. I will do my best to do that succinctly so bear with me.

In my former professional life, as a Realtor, I assisted in contract negotiations and eventually was the "fresh eyes" for Coldwell Banker in Kona whereby the then BIC (Broker In Charge) would forward contracts to me for perusal and correction as such is my propensity for legal details. I have been involved in more large Court cases and Settlements than I can remember. Such is my background relevant to the legislation at hand.

Reviewing the 38 pages of the proposed Ordinance, I am of the opinion that in order to prevent the future paperwork logjam, that even now currently hinders the DPP, particularly in matters of Enforcement, I will offer suggestions to thwart criminal intent as regards to Oahu TVUs.

Overall, there is a need for the DPP to Serve NOV's and NOO's efficiently and accurately. I have watched inspectors and management of the Department fail at this for the last 4 years. In one case, subject property 451 Keolu Dr, Kailua, owned by Mr. Tom Hyunh, the Department has been unable to process serve him for his flagrant and confirmed ongoing violation since 2017. I know this by confirmation with Cathy Weinhardt, Joshua Yapp, and Terry Hildebrand among other contacts I have. Mr. Hyunh, it seems, figured out if you merely evade service, you can cat & mouse the Department to non-fulfillment of enforcement ad infinitum. So let me make this analogy using tow truck drivers: the ones that you call to come fix your flat tire are a different breed from the tow drivers that the City calls for illegally parked vehicles or that the loan companies call for auto repo. One is a great guy, one is a pitbull. The Department needs the latter. In order for Service to be rendered on the criminally intentioned, Service must be done OUTSIDE the DPP (Police, Sheriff, Licensed Process Servers, as examples). Their service fees, if any, are reasonable. Many of these officials have access to ID data banks like driver's license photos, which can immediately identify parties, like Mr. Hyunh for just one example, who denied his identification when approached to be served an NOV by Cathy Weinhardt several years back. That would eliminate to have the server to ask "Are you Mr. So and So?" Easy peasy. Disgruntled neighbors, many of whom now have security cameras, are more than willing to provide ID photos and testimony, as well as pictures of automobiles of both the property owners and their multitude of tenants, time-stamped, with their arrivals and departures. Please allow the

community to assist your Department, either anonymously or proudly front and center as in my case.

In Section 21-5.730.4 Clause b (2) , pg. 33, which details the 180 day rental period is a Violators dream. Our local illegal AirBnB owner, who presently advertises a very clear "30 day minimum rental period" has prepped all of his 3-day renters (i.e. ALL of his renters): "I'm a friend of Tom's" or "I'm Tom's uncle/cousin/brother/babysitter/etc. (take your pick..). Easy peasy. Now how do you plan on eliminating that current loophole? DNA testing? This is going on as we speak. Ask Joshua Yap, a wonderful DPP inspector, who, like the good tow truck driver would prefer not to have dealing with such unsavory owners and their obviously prepped tenants as part of his enforcement marching papers. They've told him: "We don't want to get Tom in trouble" (don't forget Tom holds their security deposit). Lie detector tests on the tenants? Signed affidavits? Both untenable of course. So that is the tough problem that will hinder enforcement. Hey, you can't stop your brother-in-law from leaving the property in under 180 days, right? It all boils down to a line in a famous song by the Eagles (Smuggler's Blues)-"the lure of easy money has a very strong appeal..". Having officials (particularly law enforcement) confirm the renter's ID's might give the tenants 2<sup>nd</sup> thoughts about whose ass the tenants would really be saving and the thought of eventually having to testify as a witness under oath by subpoena is a prospect that would give most people pause.

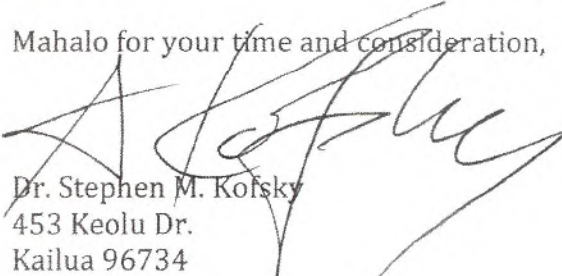
In all cases of Return Receipts, it would be expedient if signature was NOT required for all of the aforesaid reasons of service evasion. It would be hard for the violator to deny that the post office ever delivered any documents. As in Paragraph c on pg. 12, it will only be honest citizens that actually sign for receipt of Certified mail, not those of criminal intent. I think we all know that. "Physical Posting" (paragraph d pg 12) is a great idea and is one I had suggested to the Department some time ago. Paragraph (e) "Service by Publication" is the jackpot, and hopefully one that the Department will use early and often for sheer expediency. Regarding Paragraph (f) same pg. 12, I don't how you can prove successful transmission of an email unless the recipient responds.

As regards pg. 13, Section 21-2.150-2 "Administrative Enforcement", paragraph (d). I am hoping that the Department can get the Courts onboard with the different Forms of service, particularly if the violator cops the plea, "I didn't know I was served, your honor." I have seen Judges have liberal sympathies in those types of "alternative" Service, and especially in these Honolulu courtrooms where wristslaps are often the preferred penalty for real estate violations.

Per page 14 f(8), 15 (5)(h) & 16(i), in all cases involving "the violator having to send to the director a written notification reporting a correction" as well as "Duration"(i) , I believe it should also state that "the violator acknowledges that treble fines would be the result of such recurrent activity" as a deterrent.

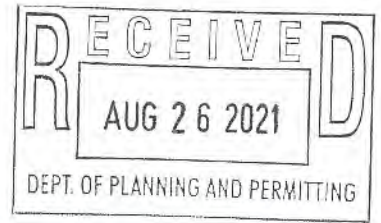
In closing, I am certain there are things that have not been addressed to end the long standing problems with Oahu's TVU short-term rental problem, but I am hopeful that this proposed Ordinance is a move in the right direction, with of course, your consideration of my suggestions. The result should be better funding for the Department's enforcement efforts and eventual compliance of the laws you are drafting for the benefit of the Community as a whole.

Mahalo for your time and consideration,



Dr. Stephen M. Kofsky  
453 Keolu Dr.  
Kailua 96734

Phone: (808) 554-9257



**From:** Arlene J. Kelly [<mailto:arlene@olaproperties.com>]

**Sent:** Thursday, August 26, 2021 9:27 AM

**To:** [info@honoluluodpp.org](mailto:info@honoluluodpp.org)

**Cc:** Larry Oldfield <[larry@olaproperties.com](mailto:larry@olaproperties.com)>

**Subject:** Keeping 30 Day Residential Rentals Legal - Proposed Bill to Change to 180 Days

CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

Aloha,

Please register me for the online WebEx meeting related to changing rental minimum from 30 days to 180 days:

Arlene Kelly

808-781-7248

[Arlene@OlaProperties.com](mailto:Arlene@OlaProperties.com)

1. We fully support enforcement actions against illegal Short-Term Rental operators. There is no need to change the definition from 30 days to 180 days. We just need to properly enforce the 30 day rule.

2. As licensed real estate professionals, we frequently encounter people on Oahu who need rentals of less than 180 days. These uses include:

- Families from out of State that are taking care of loved ones
- People moving to Oahu and looking to buy a home
- Families who are waiting for their new home to complete construction
- Government contract workers
- Traveling nurses and doctors
- Workers for construction projects on west side Oahu
- People and their families from outer islands here for extended medical treatment
- Military PCS while looking for a home to buy
- Military PCS leaving the island needing a rental for a month or so after household items are shipped
- Home Sellers who need to rent until they find a new property
- Home owners who have damage to their property & need to rent temporarily
- Home owners doing renovation who need a temporary rental
- Film and TV crews while on a shoot
- Couples & families who vacation here as snowbirds for 2 to 4 months to get away from the cold or heat during the summer months
- People wanting to work "virtually" from a monthly rental

3. It is overly broad to include all rentals 30 days or greater as Short-Term Rentals and will harm many local property owners as well as the Tenants that stay in their homes.

**Personal Examples:**

One of my clients retired here in October 2020 and needed to rent a furnished rental until they found a home to purchase. They estimated a month or two, but with the low inventory of homes and high demand, it is taking longer than planned, but they wouldn't want to commit to 180 days lease, not knowing when they'd find a home to purchase, nor do they want to stay in a hotel the whole time.

Many of our owners in Ko Olina Resort use their homes for part of the year as their vacation or part-time home and want or need the rental income from the other months to help maintain the property, pay property taxes, pay maintenance fees, etc. And they appreciate having someone living in the home.

**Mahalo,**

**Arlene J. Kelly, REALTOR®**

808-781-7248 Phone/Text

[ArJ@OlaProperties.com](mailto:ArJ@OlaProperties.com) Ola Properties, Inc. for Vacation Rentals

Broker-in-Charge

Certified Residential Specialist (CRS)

Graduate, REALTOR® Institute (GRI)

Accredited Buyer's Representative (ABR®)

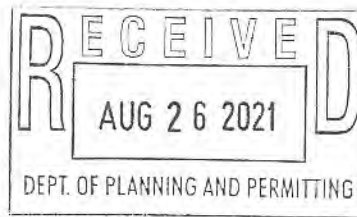
License RB-20031

Ola Properties, Inc. RB-19843

808-726-2878 Office

<https://www.olapropertysales.com/arlene-j-kelly/>

Sent from my



August 26, 2021

Testimony submitted in support of Proposed Amendments to Chapter 21

I am writing to add my voice to the many Kailua residents who would like to see action on illegal bed and breakfast operations in residential Kailua. While the 2018 changes to Honolulu Ordinances (Ordinance 19-18) were a positive step in removing Short Term Rentals (STR's) from our community, the definition of 30 days as the division between short and long-term rentals and lack of any obvious enforcement were holes in achieving the goals of this legislation. After reading the DPP recommended amendments to the land use ordinance dated August 13, 2021, I want to express my strong support for these proposed amendments. While much has been written about the impact of STR's in our communities, I want to add the following observations.

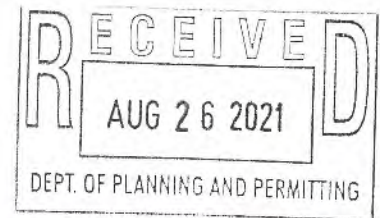
1. Loss of long term rental housing in Kailua. I am an engineer and earn a good salary as do most of my colleagues, but when one of them told me that he was now renting a studio unit in Kailua at a cost of \$2100/mo and added that this was now the going-rate, I was stunned. Several of my neighbors have taken units that used to be long term rentals off the market and listed them on VRBO and Air B&B. The laws of supply and demand are at work.
2. Housing prices in Kailua are now rising even faster than normal with perspective buyers aware that a B&B can help them pay their exorbitant mortgage (most buyers are well aware that it is not difficult to work around the 30 day STR definition especially given the total lack of enforcement).
3. Businesses in Hawaii, especially professional services providers, have always struggled to retain talented employees that we bring in from the mainland due to an inability to find locals with the necessary skills. The challenges posed by this rapidly escalating housing market makes it ever harder to keep these people for more than a year or two. This has always been a problem, but the housing challenges have made this much worse.
4. What happens to folks who can't afford home ownership or even a decent rental? Where will they live as time goes on? Are not these illegal rentals just adding to our homeless problem or causing long term lessees to leave the state in search of greener pastures? Many of these same people are filling the critical service industry jobs that support a large tourist industry. What long term impact will that have?
5. The residential character of Kailua has changed and continues to evolve. As time goes on longer term residents erect barriers (physical or otherwise) as they tire of the revolving door of strangers walking down our streets, parking in our spots, clogging up our beaches and filling all the eateries in our neighborhood. Quality of life for the residents who form the backbone of these communities suffers and continues to get worse as more and more homes take the plunge into illegal B&B's.

I strongly urge the full adoption of all the proposed amendments related to Short Term Rentals in residential neighborhoods on Oahu. Such changes and their enforcement are overdue and badly needed.

Sincerely

Dale Jensen  
174 Makawao Street  
Kailua, HI 96734  
Dalejensen2@gmail.com

**From:** Sasha Capone [<mailto:sasha@elitepacific.com>]  
**Sent:** Thursday, August 26, 2021 11:40 AM  
**To:** [info@honoluludpp.org](mailto:info@honoluludpp.org)  
**Subject:** We oppose changing the definition of TVUs from 30 to 180 days



CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

Aloha Honolulu DPP,

I am writing to **OPPOSE** changing TVUs from 30 to 180 days. We need to keep long term rentals at 30 days or more. As a real estate professional, I often see families who wish to not stay in a hotel and instead want to stay in a home for 1 month.

This would greatly affect many businesses, professionals and homeowners in a negative way.

Please keep long term rentals at 30 days or more.

Mahalo,

Sasha



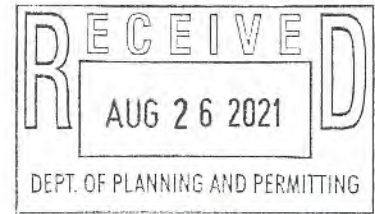
**Sasha Capone.** RS-73180  
Realtor-Associate, Vacation Rentals, Elite Pacific, LLC  
[808.294.4340](tel:808.294.4340) | [sasha@elitepacific.com](mailto:sasha@elitepacific.com)  
[www.HawaiiLuxuryHomes.com](http://www.HawaiiLuxuryHomes.com)



**IMPORTANT NOTICE:** Email scams and wire fraud are becoming increasingly common. Never wire any funds, or provide anyone wiring instructions, without first verifying it by phone with your real estate agent or escrow officer.

*This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. Please notify the sender immediately by e-mail if you have received this e-mail by mistake and delete this e-mail from your system. If you are not the intended recipient you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited.*

**From:** [honolulub@aol.com](mailto:honolulub@aol.com) [mailto:[honolulub@aol.com](mailto:honolulub@aol.com)]  
**Sent:** Thursday, August 26, 2021 11:52 AM  
**To:** [info@honoluludpp.org](mailto:info@honoluludpp.org)  
**Subject:** Your upcoming September 1 hearing

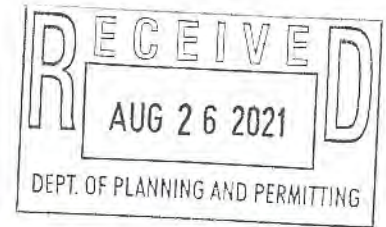


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We are against the move to change the definition of short term rentals to include anything less than 180 days. There is a great need for shorter term rentals. The current system works fine as is if DPP were to in force the current rules. The popularity of vacation rentals speaks well of the need for this in the marketplace.

1. We fully support enforcement actions against illegal Short-Term Rental operators. There is no need to change the definition from 30 days to 180 days. We just need to properly enforce the 30 day rule.
2. We frequently encounter people on Oahu who need rentals of less than 180 days. These uses include:
  - Families from out of State that are taking care of loved ones
  - People moving to Oahu and looking to buy a home
  - Families who are waiting for their new home to complete construction
  - Government contract workers
  - Traveling nurses
  - Military PCS while looking for a home to buy
  - Home Sellers who need to rent until they find a new property
  - Film and TV crews while on a shoot
  - vacationers not wanting to stay in a costly hotel
3. It is overly broad to include all rentals 30 days or greater as Short-Term Rentals and will harm many local property owners as well as the Tenants.
4. The Owners of Daily Units in the Resort zone will need to move management companies which may lower income. Will have additional fees and restrictions
5. It greatly affects the market value of your property.

**From:** Adam Rose [<mailto:islandrose@live.com>]  
**Sent:** Thursday, August 26, 2021 12:33 PM  
**To:** [info@honoluludpp.org](mailto:info@honoluludpp.org)  
**Subject:** Opposition to DDP's Latest Revision to the STR Bill



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Aloha Chair Lee,

I am writing to strongly oppose the Draft Bill with proposed amendments to the Short-Term Rental Ordinance. I'd like to speak to the inaccuracy of many of the arguments made in the recent Draft Bill.

First, shutting down STRs in August did not lead to the reduction in traffic mentioned in the Draft Bill. The lockdown of the state and shutting down of hotels reduced traffic. Closing STRs would not reduce the number of people and vehicles in our neighborhoods. Rather, it would bring more vehicles into our neighborhoods. If tourists were to be restricted from staying in STRs in Kailua and Lanikai, for example, it would not keep them away from these neighborhoods. Tourists would now create more traffic by driving to these beaches from Waikiki or continue to drive to other desirable areas around the island. In addition, many local families have multiple cars that are parked on side streets, whereas tourists typically only rent one car for the entire family. If the DDP's goal is to keep the tourists in the resort areas, they should limit the number of rental cars and cars available on ride-sharing platforms like Uber & Turo. The state could also extend the rail to Waikiki so visitors can go directly from the airport to Waikiki and have less car options for leaving Waikiki.

Changing the minimum rental from 30 days to 180 days would change the long standing land use ordinance for residential properties across Oahu. Many Oahu residents need short-term housing options that allow them to stay in rentals on a "month-to-month" basis. In addition, there are many home-owners who bought their homes with the understanding that they could rent the property on a month to month basis. A true Transient Vacation Unit should remain 30 days or less.

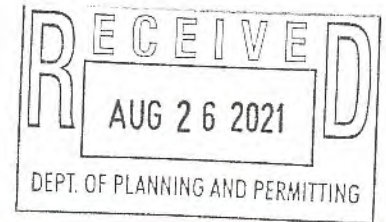
My family depends on the revenue from our Transient Accommodation to offset the outrageously high price we paid for our home in Hawaii. We have registered, and have been paying the appropriate TAT and GE taxes on a unit that we rent out for the legal 30 day minimum to rent to traveling nurses, military, students, returning residents, etc. We rely on the help of our parents to visit with us from the mainland to take care of our young children while we work multiple jobs to pay for our mortgage. We don't have the luxury to rent our property for a minimum of 180 days since our parents have moved to the mainland. They come back several times a year to visit their two grandchildren so we need the extra bedroom vacant when they come. If we were required to rent out our unit for the 180 days our parents would be forced to stay in Waikiki, rent a car and drive to the windward side everyday. They would not be able to afford the accommodations and rental car, not to mention that this would add to the traffic problem. In the end, our children will grow up not being able to see their grandparents or benefitting from the help they provide our young family.

We are in favor of some regulation of the Short-Term Rental industry to protect our island and its residents. The ability to enforce Bill 89 was not realistic, in particular the "1000 foot rule." Oahu would benefit from a realistic and legal path for its residents to operate a limited number of short-term rental outside of the resort areas. We feel the proposed bill goes too far and will financially hurt many of its current residents who rely on short-term rental income and should be reconsidered.

Thank you for your time and consideration.

A. Rose

**From:** Paola Grover [<mailto:paolax11@gmail.com>]  
**Sent:** Thursday, August 26, 2021 1:22 PM  
**To:** [info@honoluludpp.org](mailto:info@honoluludpp.org)  
**Subject:** 9/1 Public Hearing Testimony



CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

Name Paola Shick

Phone 808 356-7889

[Paola2550@outlook.com](mailto:Paola2550@outlook.com)

Meeting date 09/01/2021

Agenda: **Proposed Amendments to Chapter 21 (Land use Ordinance [LUO]),  
Revised Ordinances of Honolulu (ROH) 1990, as Amended, Relating to Transient  
Accommodations**

Your Position on Matter: Oppose

Representing Organization Self

NO speaking at the hearing

Written testimony

Dear Committee Chair Brian Lee and Planning Committee Members,

I strongly disagree with proposed amendment to Chapter 21;

My mother and I put our life savings for the deposit to buy our property in a resort zone  
condo hotel in Waikiki two months ago. (Per current low condo hotel rooms are allowed

as TVU and able to be managed by owner) We just finished all renovations in the amount of \$46,000 dollars. The unit was outdated and in poor condition since the hotel had a hard time renting any of the rooms during the pandemic and still does.

According to the new amendment, we would have to allow the hotel to manage our unit perhaps waste all our renovations, money, and have the unit matching the hotel's outdated look that no longer attracts guests. How would this benefit anyone? The hotel would still be unable to improve any dated rooms, due to lack of resources and revenues causing less booking, less revenues.

It is a fact that tourists look for fresh and uplifting places, not depressing, almost abandoned buildings. This is what would happen to condo hotels that barely made it last year. If bookings decrease, OWNERS can't pay HOAS, buildings will no longer have the capital to make any structural and internal maintenance that would be needed sooner than later.

We investors help the economy in many ways, but perhaps the most important fact is we follow the rules, pay TAT/ GET Taxes and give employment to many people. But still the state punishes us with cumbersome processes to get permits and dictates how we need to manage our private property, how we need to handle a tithe of our property. We consider this a violation of our constitutional rights!

The constitution protects property rights through the Fifth and Fourteenth Amendments' Due Process Clauses and, more directly through the Fifth Amendment' Takings Clause.

Regulatory Takings, applied to this case the investor/owner is often not compensated at all for his losses. About 53 courts in the United States have agreed that for every dollar for capital improvement the owner puts into the property constitutes an investment for which a fair and reasonable return must be allowed.

It is understood that capital improvement in a hotel room will then mean higher nightly rates, and revenues, it will constitute a reasonable return of investment. If our unit is given back to the hotel pool and transformed into an outdated room, all our efforts will be

lost, and no reasonable returned of investment will be observed thus violating our constitutional rights as real state owners.

Most condo hotels in Waikiki are dated and lack the resources to renovate, update their rooms, thus making them less appealing to guests and renters. Families like us, buy properties with the main goal to improve tired and outdated hotel rooms. We help improving not only the image of the hotel but the finances as well, and prevent low occupancy rate should the hotel continues to advertise outdated rooms.

It would devastate our family if we were forced to follow this changes with the high cost of leaving, health care costs, and education costs.

We currently own three units and according to the Section 18 Chhapter 21 Article 5,

We would no longer be able to do so.

Please stop all these sudden changes during challenging times, our economy is still fragile, these addendums are only going to cause more losses to the state. We are not out of the pandemic yet; we don't know the devastating financial implications should the pandemic continues. But still the state attacks residents who want to make an honest living and help the local economy.

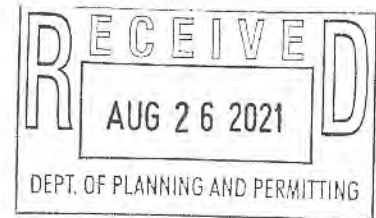
I'm in disbelieve that our hard-earned dollars we pay on property taxes, about \$3,125,000 will be allocated to punish us citizens and penalize us for not following ludicrous laws and restrictions of the usage of our own private property.

Thank you, council members for your time and efforts.

Very Truly Yours,

Paola S.

**From:** Suzie Mai-French [<mailto:suzie.mai@gmail.com>]  
**Sent:** Thursday, August 26, 2021 2:31 PM  
**To:** [info@honoluluodpp.org](mailto:info@honoluluodpp.org)  
**Subject:** Short-term Rentals R Not Us



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Dear Council and DPP admin,

As a long time Realtor-Associates in the business, I've helped many families relocate across the islands, inter-island, and to/from from the mainland. And the gap of these folks who need 30+ day rentals are not your typical happy-seeking tourists whose ignorance is bliss. They are the local people who are already deeply connected in our neighborhoods, the committed newcomers to our state who are researching schools for their kids, or simply the traveling professionals with jobs that are here to improve our local communities. We fully support enforcement actions against illegal Short-Term Rental operators who operate less than 30-days. But there is no need to change the definition from 30 days to 180 days. We just need to properly enforce the 30 day rule. Here's some personal local stories why I'm opposed to this proposal:

1. Case in point, I had my house where a long-term renter (who pays a below market rent) decides to STR my property without my knowledge. He blatantly posted on [vrbo.com](https://www.vrbo.com) for daily rentals, this went for 5 months long until a neighbor turned him in. And I, being the owner, got the violation letter. I spent another \$4500 in attorney fees to get him out on material breach to the lease. He sat with rent unpaid to me for another 3 months (almost \$6000) while collecting from other roommates he had! It's covid, so he sat unpaid and unmoved while my attorney negotiate with him "cash for keys". Where was DPP enforcement early on? Why am I paying over \$10,000 to get this 180-day rental dumbnut out of my house?

2. Now, we decide to take back this property and renovate it so we can move back into the house. I have a growing family so we will also be doing a little addition on the top level. My permit is sitting 6 months long for simple renovation and addition to an existing home. I've been paying double mortgages for the last 6 months and this is not fair one bit. I am foregoing a hot market to sell my current condo because my replacement property is in permitting limbo. A few of my neighbors are begging for their ADU to pass so they can rent out to other local neighbors and expand housing to our locals. But like me, their application sat for 6+ months too. Please focus back on the duties your DPP departments are inundated with. Permitting speed had not improved even without the bribers that were staking the department earlier on. Please do not create new rules and new enforcements while racking up dollars we don't need to be spending on.

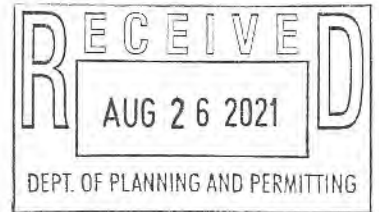
3. As licensed real estate professional over the last 16years, we frequently encounter people on Oahu who need rentals of less than 180 days. These folks are not your overrunning tourists, they are often conscientious professionals who need gap housing. These uses include families from out of State who are taking care of loved ones, people moving to Oahu and looking to buy a home and school choice is a family commitment for them to settle in for 6+ months, families who are waiting for their new home to complete construction (or permitting), government

contract workers, traveling nurses coming to help our medical tired staffs, IT personnel on contract work to improve our informational infrastructures, military PCS while looking for a home to buy, home Sellers who need to rent until they find a new property, film and TV crews while on a shoot. These are people who are contributors to the community, heavily invested in their professional mission, and need gap housing that is furnished and can provide more space for their family than a hotel room can. They are often the vaccinated, employed, and they do-not-touch-our-sea-turtles group. The property owners of these gap housing by definition are obliged to pay TAT and GET if the lease is under 180 days. To the legal property owners who paying their TAT and GET following the 30+ day rules, why should they be punished? You already have data from Airbnb and Homestay who the illegals doing <30 days are (like my dumbnut tenant), so followup/enforcement there will help us as a State operate in healthier and wealthier ways.

I believe fixing DPP's internal structure to perform its best in the areas of permitting construction, fast tracking Bill 7 to build more affordable homes, and to enforce diligently so that taxes are collected on time is top priority. You folks play an integral part in fixing almost 80% of Hawaii's problems from homelessness to housing supply to revenue generating that we so so need for the entire island. But you have to operate as efficiently as you should! Start with what you have - that laundry list of things to do already and build on that an efficient and transparent department ridding of bribes and favoritism. So in my opinion, It is overly broad to include all rentals 30 days or greater as short-term rentals. This will harm many local property owners as well as the tenants who stay in their homes. I feel you and the people of Hawaii all lose when your department cannot efficiently do the task it was designed to do from the beginning let alone add on more layers of complexity in the name of overtourism, affordable housing, and even shortage of housing supply.

Thank you for your concern and interest.

Warmest,  
~SMF



## Short Term Vacation Rental

### Opposition To Proposed Amendment To Chapter 21; August 2021

#### **180 days is Unreasonable Keep the 30 day rule**

The Department of Planning and Permitting (DPP) has submitted a draft bill proposing amendments related to Transient Accommodations. These new regulations are not fair regulations and are based on untrue statements about the impact of short-term rentals (STR). The background and analysis from DPP are opinions of the author and are not true statements.

I live on the North Shore and I want to offer my legal guest suite as a short-term vacation rental for extra income in my retirement. My residential street is not negatively impacted by my STR as I do not impact my neighbors. My booking are all 30 days compliant with the rules, I live on site and I have on site parking.

You have an obligation to draft reasonable regulations. I live on my property, and I will never open-up my legal guest suite for long term renters so that I can keep the unit for my family to visit, they live on the mainland; thus, my guest suite will never generate additional housing on this island. I believe if the homeowner is also a resident on property, I should be allowed to do short term rentals. I live here on the island of Oahu, and I know my neighbors. Whole-home vacation rental owners, like myself, care about our neighborhoods and want to help find a solution that ensures travelers continue to visit this island.

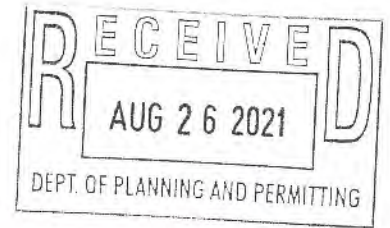
Changing the term of a Transient Vacation Unit (TVU) to require a 180-day rental period shuts down everybody. I often rent to traveling nurses who stay 1 to 3 months now they will have no place to rent. This change is not fair and puts blame on STR unfairly.

Keep the rental period to 30 days and require that the owner live on property and the problems are solved! The reported problems in the past have all been properties without owners living on site. I offer onsite parking, my unit is legal and safe, I have insurance, I just will not rent long term because I want my guest suite for my kids when they visit. If I rent my guest suite for more than 180 days, I have no right to ask the tenants to move out so my family can visit me.

Cedar Kehoe

North Shore Resident

**From:** [cedarkehoe@gmail.com](mailto:cedarkehoe@gmail.com) [mailto:[cedarkehoe@gmail.com](mailto:cedarkehoe@gmail.com)]  
**Sent:** Thursday, August 26, 2021 2:38 PM  
**To:** [info@honoluluodpp.org](mailto:info@honoluluodpp.org)  
**Subject:** How do I get this to each Council District for the Planning Commission.



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How do I get this email to the Planning Commission members – like Brian Lee. I can not find a direct email address for him. Can you help me. Thank you

Short Term Vacation Rental

Opposition To Proposed Amendment To Chapter 21

180 days is Unreasonable Keep the 30 day rule

The DPP has submitted a draft bill proposing amendments related to Transient Accommodations. My neighbor rents to travelling nurses, IT professionals, Solar Panel experts, emergency response personnel, architects etc. All good people with skills. Where are these employees going to stay if nobody can rent for 30 – 180 days. They will not come to Oahu.

Hawaii needs the ability to have skilled workers come to this island for period of more than 30 days and less than 180 days and stay close to their work site as they do now. Requiring them to drive to Waikiki means they will not come to Oahu. These new regulations do not understand employment on this island.

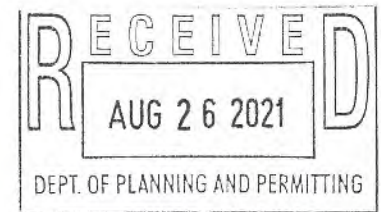
I have lived on the North Shore 45 years. My residential street is not negatively impacted by my STR as they do not impact my neighbors. Keep the rental period to 30 days and require that the owner live on property and the problems are solved! The reported problems in the past have all been properties without owners living on site and stays of less than 30 days. Owner should offer onsite parking and have insurance.

Michael Ells

808 341-1806

[Specgenme@gmail.com](mailto:Specgenme@gmail.com)

North Shore Resident



**From:** Robert Wilhelm [<mailto:robledowilhelm@icloud.com>]

**Sent:** Thursday, August 26, 2021 2:15 PM

**To:** [info@honoluludpp.org](mailto:info@honoluludpp.org)

**Subject:** We support changing the definition of TVU from 30 to 180 days

CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

Aloha;

FYI, my wife and I have been property owners on Oahu since the 1990's and frequent visitors before then. Currently, we own 2 properties on the North Shore and one in Honolulu.

The proliferation of short term rentals in the last few years has led to a major deterioration of the quality of life on Oahu. Residential neighborhoods are overwhelmed with short term visitors who park cars everywhere, party until late at night, and generally have no respect for the property. Swimming pools are jammed and often unusable after the short term renters depart. Furthermore, the short term rentals diminish the housing stock for residents who need a home.

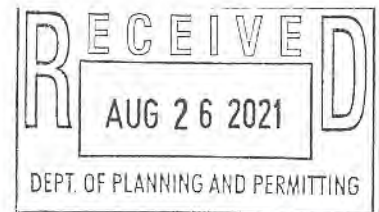
There are plenty of hotels on Oahu that can accommodate visitors who just stay a week or so, and for those visitors who need accommodations for several months a rental for 90 days or more should be allowed.

There is a well-organized campaign to permit even more short-term rentals and I hope you do not fall victim to the false assertions by proponents of ever increasing short term rentals.

Sincerely,

Robert E. Wilhelm

P.O. Box 4475  
Avon, CO 81620-4475



**From:** Peter Prose [<mailto:peter.prose@gmail.com>]

**Sent:** Thursday, August 26, 2021 3:51 PM

**To:** [info@honoluluudpp.org](mailto:info@honoluluudpp.org)

**Subject:** We oppose changing the definition of TVUs from 30 to 180 days.

CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

To the Department of Planning and Permitting:

I grew up in Mililani and own a single family home in Hawaii Kai, where I was a resident for four years. Due to job opportunities on the mainland, I moved away in 2017 and since then have rented my home out on a short term basis. I engage the services of a professional property management company (Elite Pacific Properties) who ensure the following:

- Strict compliance with the 30-day rental rules
- Maintenance of the property for the aesthetic benefit of the community
- Guest compliance with parking rules and noise curfews to ensure that neighbors are not disturbed by the presence of the renters

This arrangement enables me to continue ownership of this property and also provides economic benefit to all of the property managers, landscapers, and contractors who maintain the property. In addition, the state benefits from the thousands of dollars I pay every year in property taxes, general excise taxes, and transient accommodations taxes.

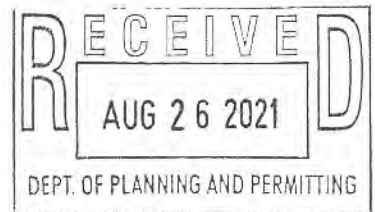
My home and others like it provide a unique experience to visitors that cannot be replicated by the major hotel chains on Oahu. In addition, there are many scenarios in which a short term rental is preferable to a hotel or a long-term lease, such as:

- Families from out of State that are taking care of loved ones
- People moving to Oahu and looking to buy a home
- Families who are waiting for their new home to complete construction
- Government contract workers
- Military PCS while looking for a home to buy
- Home Sellers who need to rent until they find a new property
- Film and TV crews while on a shoot

Many of my tenants over the last 4 years fall into these categories. I fully support strict enforcement actions against illegal Short-Term Rental operators - short stays with frequent guest turnover and a lack of attentive professional management is detrimental to the character of Oahu neighborhoods. That being said, there is no need to change the definition from 30 days to 180 days, as that would reduce the options available to Oahu visitors who have a variety of different needs.

Please take this testimony into account and leave the definition of a TVU at 30 days as it currently stands.

Kind regards,  
Peter Prose  
Hawaii Kai Homeowner  
(808) 259-1703



## HOUSE OF REPRESENTATIVES

STATE OF HAWAII  
STATE CAPITOL  
HONOLULU, HAWAII 96813

### TESTIMONY TO THE CITY & COUNTY OF HONOLULU PLANNING COMMISSION

Wednesday, September 1, 2021 11:30 a.m.

#### ***RE: Proposed Amendments to Chapter 21 Land Use Ordinance, Revised Ordinances of Honolulu 1990, as Amended, Relating to Transient Accommodations***

Testifier: Representative Patrick Pihana Branco  
House District 50 (Kailua, Kāne'ohe Bay)

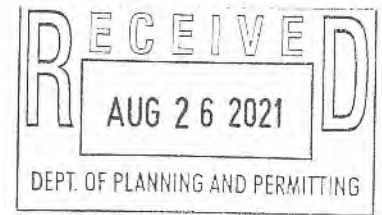
Position: In Strong Support

Aloha and mahalo for allowing me to testify in strong support for the proposed Land Use Ordinance Amendments relating to Transient Accommodations. I represent Hawai'i State House District 50 (Kailua, Kāne'ohe Bay), a community severely impacted and inundated by illegal vacation rentals. For at least two decades, residents endured the noise, inconvenience, lack of parking, and safety concerns caused by homes operating as hotels. Sadly, it took a major pandemic for us to realize what a residential neighborhood truly is meant to be. These carefully considered and crafted proposed amendments not only will better protect our communities but will stimulate much-needed affordable housing.

Locating vacation rentals in areas zoned explicitly for tourism is not only the right thing to do; it is the only sensible option. Our hotel visitor industry will be better supported, and the mounting strain on our small town infrastructures will be reduced. It has been said that this island has been run for tourists at the expense of local people. By clearly delineating tourism from residential areas, the City & County is sending the message we will protect our neighborhoods for those who live here.

New regulations and requirements are meaningless without strong enforcement. I encourage the City & County of Honolulu to expedite investigations promptly and issue collectible fines as warranted. In Kailua alone, there is one property accruing over \$1.5 million in uncollected fines. This bill will allow for generous funding, and there is no reason violators cannot quickly and efficiently be prosecuted. These amendments not only provide the funding but the personnel for effective enforcement.

For the constituents and community I serve, mahalo for voting yes on these welcomed and long-awaited Land Use Ordinance Amendments relating to Transient Accommodations.



**From:** Hayakawa, Akino [<mailto:AkinoH@cbpacific.com>]  
**Sent:** Thursday, August 26, 2021 4:08 PM  
**To:** [info@honoluluudpp.org](mailto:info@honoluluudpp.org)  
**Cc:** Hayakawa, Akino <[AkinoH@cbpacific.com](mailto:AkinoH@cbpacific.com)>  
**Subject:** Written Testimony: Please keep long term rentals at 30 days or more  
**Importance:** High

CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

Dear Honolulu Department of Planning and Permitting:

We fully support enforcement actions against illegal Short-Term Rental operators. There is no need to change the definition from 30 days to 180 days. We just need to properly enforce the 30 day rule.

As licensed real estate professionals, we frequently encounter people on Oahu who need rentals of less than 180 days. These uses include:

- Families from out of State that are taking care of loved ones
- People moving to Oahu and looking to buy a home
- Families who are waiting for their new home to complete construction
- Government contract workers
- Traveling nurses
- Military PCS while looking for a home to buy
- Home Sellers who need to rent until they find a new property
- Film and TV crews while on a shoot

It is overly broad to include all rentals 30 days or greater as Short-Term Rentals and will harm many local property owners as well as the Tenants that stay in their homes.

Kindly reconsider.

Respectfully,


**AKINO HAYAKAWA (RA, RS-76595)**

Certified Residential Specialist (CRS) Hawaii President 2021 & 2022 | Certified International Property Specialist (CIPS) | International Diamond Society | Global Luxury Team Member

Coldwell Banker Realty | Diamond Head Kahala Office

4211 Waialae Avenue, Suite 9000 | Honolulu, HI 96816

M: 808-226-7645 | E: [akinoh@cbrealty.com](mailto:akinoh@cbrealty.com) | [www.akinohayakawa.com](http://www.akinohayakawa.com)

 **COLDWELL BANKER REALTY**

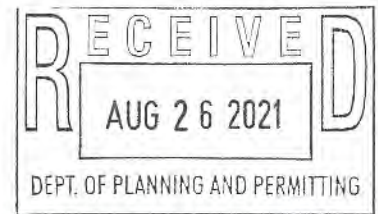
**\*Wire Fraud is Real\*. Before wiring any money, call the intended recipient at a number you know is valid to confirm the instructions.** Additionally, please note that the sender does not have authority to bind a party to a real estate contract via written or verbal communication.

**From:** Anne Kirkland [<mailto:annekaloha@gmail.com>]

**Sent:** Thursday, August 26, 2021 4:13 PM

**To:** [Info@honoluludpp.org](mailto:Info@honoluludpp.org)

**Subject:** Proposed Amendments to Chapter 21 (Land Use Ordinance [LUO]), Revised Ordinances of Honolulu (ROH) 1990, as Amended, Relating to Transient Accommodations.



CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

**Proposed Amendments to Chapter 21 (Land Use Ordinance [LUO]), Revised Ordinances of Honolulu (ROH) 1990, as Amended, Relating to Transient Accommodations.**

Dear Planning Commission Members,

I am very concerned about the proposed amendment to Chapter 21 which is related to Transient Accommodations. According to this bill, the purpose of this ordinance is “to better protect the City’s residential neighborhoods and housing stock...” According to this bill, short term rentals are:

- “Disruptive to the character and fabric of our residential neighborhoods”
- “They decrease the supply of long-term housing for local residents”
- “They increase the prices of rent and housing”.

I do not disagree with this. I believe the best way to protect residential areas, housing stock and avoid the negative effects of STR in residential neighborhoods, is by simply enforcing Ordinance 19-18 (Bill 89).

However, I have a few questions and concerns about the proposed amendment.

1: Sec 21-5.360 Condominium Hotels: “Units in a condominium-hotel must be part of the hotel’s room inventory”

I don’t see how this Section is related to the original purpose of this ordinance, which is to protect residential neighborhoods. Condominium-hotels are in Waikiki, in resort zones or adjacent to resort zones, hence not in residential neighborhoods.

Furthermore, how does forcing property owners of units in Condominium-hotels into being part of the hotel pool enforce the original purpose of this proposed amendment? This Section does not offer any benefit to the local community, but only to the hotel industry. This Section eliminates any possible competition through legal property management companies and creates a monopolistic market.

I am an owner of a legal STR (TVU) in the Waikiki resort zone, in a Condominium-Hotel. I opted to have my unit managed by a professional short-term management company, whom I have the utmost trust in, instead of being managed by a hotel pool. The company that manages my unit is a licensed and bonded company who have 25 employees (all living and working on the island) and provide a very reliable and professional service to me as an owner as well as to our guests.

The fact that units in Condominium-Hotels can be managed by either the hotel pool or by third-party management companies creates a healthy and competitive market.

Imposing that only the hotel pool is allowed to manage all units in Condominium-Hotels creates a monopolistic market for

the hotel industry. It is obvious that this type of condition has only negative effects for the public (high prices and low-quality service), and only benefits the hotel industry.

In a purely monopolistic model, the monopoly firm can restrict output, raise prices, and enjoy super-normal profits in the long run.

The hotels would be able to charge very high management fees to the owners of hotel-units without fearing to lose clients, since the owners wouldn't have any other choice anymore. The same would apply if the owners wouldn't be satisfied with the offered service.

Some Condominium-Hotels have up to 1,000 hotel-units. One hotel operator can easily be overwhelmed by having to manage all the units and can't offer the dedicated, very responsive and reliable service a management company can for both the owners and the guests. This could even quickly turn the owner's investments into a loss and force many to sell their units.

I agree that the number of tourists coming to the islands needs to be limited. A healthy tourism industry would be highly beneficial for this island. But it is important for the tourism industry as well to support a healthy, professional, and competitive market.

This is the only way to ensure that the supply of vacation units is kept in good condition and the quality of services remains high.

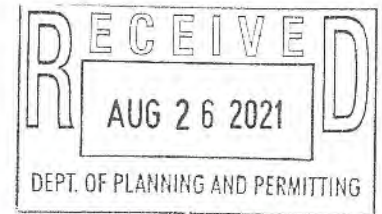
3: Sec. 21-5.730-2: "Each natural person may own no more than one unit that is registered as a B&B or TVU.

This section does not have any positive impact on the local housing market! Since the number of legal TVUs and B&B will not increase, why does it matter how many units a person owns? Aren't we living in a free market, where people can invest, own, purchase whatever is legal? What would come next? Limiting the number of houses someone can own, or the number of cars someone can own? I don't believe such

drastic regulations and limitation of ownership can protect the city's residential neighborhoods and housing stock.

Thank you for acknowledging my concerns,  
Anne Kirkland

**From:** Jamison Gove [mailto:jamisongove@gmail.com]  
**Sent:** Thursday, August 26, 2021 4:21 PM  
**To:** Takara, Gloria C  
**Subject:** Short-Term Rental Bill



CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

Dear City Council Members and Planning Commission,

I want to begin this letter by stating that I am fully and whole-heartedly in support of the increased enforcement of illegal vacation rentals.

My wife and I rent our house on the North Shore of Oahu, near Sunset Beach. The proliferation of illegal vacation homes has directly contributed to the reduction in housing supply and the increase in housing prices in this area. It has unquestionably impacted the social cohesion and social structure of our community.

I am an oceanographer and my wife is a social worker. We are doing everything we can to try and make this community our home. To that end, we recently purchased a legal vacation rental at Kuilima Estates. We made a very conscious decision to buy this condo in this area for this exact reason - because it's zoned Resort and legal to short-term rent. We manage it and clean it ourselves. We believe this purchase and the income that it generates is our opportunity to save and eventually purchase a home that our future expanded family (we are hoping to have kids soon) can live in.

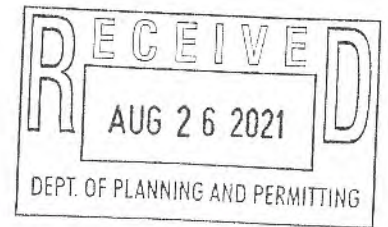
That said, the details in the proposed bill on short-term rentals are deeply concerning. Imposing registration fees and renewal fees on top of GET, TAT, resort zoned property taxes, and income tax is simply too much.

I would hope that societal well-being is a major factor in driving your decision making on this issue. Given that, I suggest decoupling the enforcement of illegal short-term rentals with new rules and associated fees on legal short-term rentals given how fundamentally different they are with respect to their impacts on our community.

Thank you,

Jamison Gove

**From:** coachcooz@aol.com [mailto:coachcooz@aol.com]  
**Sent:** Thursday, August 26, 2021 4:47 PM  
**To:** Takara, Gloria C  
**Subject:** The changing of the short-term rental period



CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

Hello Mr. Lee and Mr. Uchida. I am writing regarding the changes of the short-term rental period. When it was changed to 30 days I totally understood that the purpose was to cut down traffic and short term partiers that don't add to the beauty and serenity of Hawaii. Now it's been proposed that it be changed to 180 days. This is ridiculous ploy to eliminate the small, local , mostly family run rentals that unlike the large hotels offer the real hawaiian spirit and experience that only a home can. You can travel anywhere and stay at a nice, crowded hotel but to stay in a beautiful, quite home by the ocean, like we do every year, is priceless. If you push this 180 day requirement through, it will eliminate many, many families who cannot or will not stay in a hotel but cannot afford to take 6 month vacations. To me that proposal is just away to get rid of the local, hawaiian run short-term rentals that are such a important part of Hawaii and its economy. I hope the Board and powers that be will listen to what the renters, who keep returning to your beautiful paradise and keep things status quo and not let the hotels push your board around.  
Sincerely Brian A. Couso

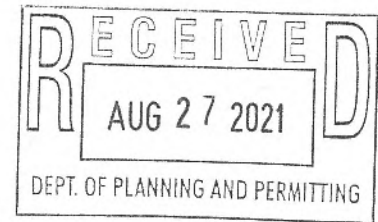
-----Original Message-----

From: Remo Balcells <rbalcells@gmail.com>

Sent: Friday, August 27, 2021 5:43 PM

To: info@honoluludpp.org

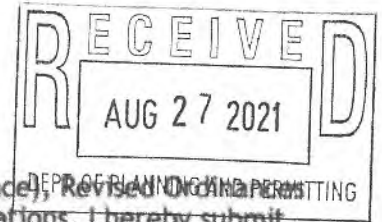
Subject: Mahalo



CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

At last. I moves to Ka Ō'hao in 97 and lived there for 19 years. I've seen the degradation of Kailua and the slow decay of wildlife at the beach due to masification. Finally some good news! Mālama 'aina. Mahalo nui loa.

Sent from my iPhone



To whom it may concern,

Regarding the proposed Amendments to Chapter 21 (Land Use Ordinance), Revised Ordinance of Honolulu (ROH)1990, as Amended, Relating to Transient Accommodations, I hereby submit my comments and testimony in opposition.

I fully support enforcement actions against illegal Short-Term Rental operators. There is no need to change the definition from 30-days to 180-days, and I support every effort to properly enforce the 30-day minimum.

The draft Bill plans to ban the legal 30-day minimum vacation rentals in Apartment Precincts in Waikiki. I oppose this Bill for the following reasons:

1. There are people on Oahu who need rentals of less than 180-days. These uses include:
  - Families from out of State that are taking care of loved ones
  - People moving to Oahu and looking to buy a home
  - Families who are waiting for their new home to complete construction
  - Government contract workers
  - Traveling nurses
  - Military PCS while looking for a home to buy
  - Home Sellers who need to rent until they find a new property
  - Film and TV crews while on a shoot

Those people don't need or want to stay at ocean front hotels paying expensive accommodation fees. There should be an option for them to stay at condos less than 180 days with affordable rates. This also benefits Hawaii's economy.

2. Some buildings in Apartment Precincts in Waikiki ban 30-day vacation rentals in their Building Bylaws, while there are some buildings that allow 30-day vacation rentals. If the purpose of this Bill is to protect neighbors, why not let Owners Associations decide by allowing their input? I do not believe the DPP should override those owners' rights and implement such a one-sided standardized rule ignoring each building's owners' opinion and right to decide.

While it is understandable banning illegal vacation rentals in more quiet "residential" neighborhoods such as Kailua or Hawaii Kai, it makes no sense for Waikiki. Waikiki is unique as a successful tourism destination, with many local businesses, restaurants, and shops, that depend on tourists. Healthy successful tourism needs a variety of accommodations that provide options to visitors. With this proposed Bill it is narrowing accommodations to only local residents with long term 180-day leases, who will not contribute to the special businesses aimed at tourism and income for business owners and the state of Hawaii.

It is obvious that this Bill is aimed to help the Hotel Industry in Waikiki. It does not benefit Oahu by providing healthy competition as it only promotes the vested interest of the Hotel industry and its revenue.

I also oppose this Bill for the following reasons:

1. Condo-Hotel properties MUST be operated by the Hotel: There are no illegal vacation rentals in condo- hotels. They are zoned as Hotel/Resort and many privately owned.

I'm not a lawyer, but I think it may violate antitrust laws (In the United States, antitrust laws are a collection of federal and state government laws that regulate the conduct and organization of business corporations and are generally intended to promote competition and prevent monopolies). I cannot see any rationale in this move other than monopolizing the tourism market by protecting the hotel industry's interest and destroying legal property management companies.

Competition in this industry is vitally important to keep improving Hawaii's accommodation services and attracting visitors to Hawaii. Competition results in better service, better property management with increased tax income to the State that benefits all local residents.

2. At the City and County level, this bill will affect the market value of many properties. Affecting these values will affect tax revenues and their ultimate use.

There should be other ways to stop illegal vacation rentals or solve the issue of the shortage of housing for local residents.

Letting the Hotel Industry monopolize the Oahu's accommodation options will result in a ruined economy.

Name. Petra Rofoli

Date 08/27/21

Signature

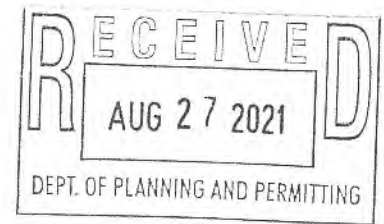
Petra Rofoli

Charles S. Cohn/Kathleen Finnigan Cohn

9900 Wilbur May Parkway, Apt #3702

Reno, NV. 89521

August 27, 2021



To whom it may concern,

We are the owners of 2895 Kalakaua Avenue (Colony Surf), Units #409 and 807, in Honolulu.

Regarding the proposed Amendments to Chapter 21 (Land Use Ordinance), Revised Ordinances of Honolulu (ROH)1990, as Amended, Relating to Transient Accommodations, I hereby submit my comments and testimony in opposition.

I fully support enforcement actions against illegal Short-Term Rental operators. There is no need to change the definition from 30-days to 180-days, and I support every effort to properly enforce the 30-day minimum.

The draft Bill plans to ban the legal 30-day minimum vacation rentals in Apartment Precincts in Waikiki. I oppose this Bill for the following reasons:

1. There are people on Oahu who need rentals of less than 180-days.

These uses include:

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- Government contract workers
- Traveling nurses
- Military PCS while looking for a home to buy
- Home Sellers who need to rent until they find a new property
- Film and TV crews while on a shoot.

Those people don't need or want to stay at ocean front hotels paying expensive accommodation fees. There should be an option for them to stay at condos less than 180 days with affordable rates. This also benefits Hawaii's economy.

2. Some buildings in Apartment Precincts in Waikiki ban 30-day vacation rentals in their Building Bylaws, while there are some buildings that allow 30-day vacation rentals. If the purpose of this Bill is to protect neighbors, why not let Owners Associations decide by allowing their input? I do not believe the DPP should override those owners' rights and implement such a one-sided standardized rule ignoring each building's owners' opinion and right to decide.

While it is understandable banning illegal vacation rentals in more quiet "residential" neighborhoods such as Kailua or Hawaii Kai, it makes no sense for Waikiki. Waikiki is unique as a successful tourism destination, with many local businesses, restaurants, and shops, that depend on tourists. Healthy successful tourism needs a variety of accommodations that provide options to visitors. With this proposed Bill it is narrowing accommodations to only local residents with long term 180-day leases, who will not contribute to the special businesses aimed at tourism and income for business owners and the state of Hawaii.

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I also oppose this Bill for the following reasons:

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violate antitrust laws (In the United States, antitrust laws are a collection of federal and state government laws that regulate the conduct and organization of business corporations and are generally intended to promote competition and prevent monopolies). I cannot see any rationale in this move other than monopolizing the tourism market by protecting the hotel industry's interest and destroying legal property management companies.

2. Competition in this industry is vitally important to keep improving Hawaii's accommodation services and attracting visitors to Hawaii. Competition results in better service, better property management with increased tax income to the State that benefits all local residents.
3. At the City and County level, this bill will affect the market value of many properties. Affecting these values will affect tax revenues and their ultimate use.

There should be other ways to stop illegal vacation rentals or solve the issue of the shortage of housing for local residents.

Letting the Hotel Industry monopolize the Oahu's accommodation options will result in a ruined economy.

Respectfully,

Names: Charles S. Cohn/Kathleen Finnigan Cohn

Date August 27, 2021

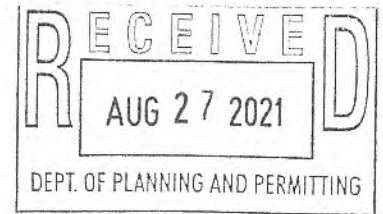
-----Original Message-----

From: Angela Tisseraud [mailto:perlahawaii@gmail.com]

Sent: Friday, August 27, 2021 10:29 AM

To: info@honoluludpp.org

Subject: rentals



CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

Lets get one thing clear.

1{ one arrogant, wealthy woman buys 2 houses on the beach, keeps us in construction for 5 years, manipulates the beach in front of the 2 houses so no-one will walk by her home] but me, with a small cottage ON MY OWN PROPERITY, I am unable to rent it?????

It is my home , my mortgage..I LIVE ON THIS PROPERITY, It is understood that no one will make noise because I LIVE HERE!!!!!!

Wha are you doing about the drugs in the neighbowwod?

What are you doing about the moped that rip thru our living rooms?

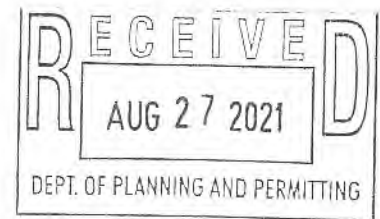
What are you doing about with the man that has thriving business growing potand sells it?

What are you doing about people on the beach manipulating the beach for themselves?

What are you doing about the crime in this neighborwood?

What are you doing about the drunk drivers that slam into the poles and are responsible for us living in the dark?

Take care od the essential things in this paradise from hell and then tell me I am ILLIGAL



**From:** aleta2135@gmail.com [mailto:aleta2135@gmail.com]

**Sent:** Friday, August 27, 2021 9:51 AM

**To:** info@honoluludpp.org

**Cc:** aleta2135@gmail.com

**Subject:** PLEASE CONSIDER THE MAJORITY OF PEOPLE NOT THE HOTEL INDUSTRY 30 DAYS VERSUS 180 DAYS

**Importance:** High

CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

There is no need to change the definition from 30 days to 180 days. There is nothing "Short Term" about 179 days ! Just ENFORCE the 30-day rule.

**DPP SHOULD FOCUS ON effectively enforcing the current short-term rental program (30 days or less), NOT trying to create an amended ordinance to impose the ineffectual law on even more property owners with likely the same effect.** We never had problems with the "less than 30 day " rule until you unilaterally banned all vacation rentals.

Re-defining what a short -term rental property to less than a 180-days is subjecting real property to already onerous requirements of an ordinance that does not remedy the current problems. It will, however, extend enforcement the problems to even more properties and property owners because the redefinition will not solve a flawed enforcement regime. This misguided logic will only encourage more people to ignore a bad rule - your proposed **180 day** minimum. You are inviting people to break rules because the rules are out of balance with the needs of the Community, your constituents.

What happened to Property rights of owners ? You impose ever increasing property taxes ! You implement and enforce a highly discriminatory Class A taxation group which actually hurts local property owners and single handedly increases rents ( some people some pass cost to tenants). Now you are telling these same owners they must limit even further the use of their property. The DPP's mission is to make sure plans and permits meet the code requirements. Many residents complain that DPP is taking a year or more to approve building permits. Please focus on improving the functioning of the DPP and more housing will be built for people. Stop aiding and abetting the HOTEL industry that pays money to your campaigns by crippling property use.

The list below is a VICTIM LIST of your self-serving and misguided attempt to penalize private property ownership.

Please consider the fact that Landlords provide a valuable commodity to our local community and visitors. Local landlords are not an organized special interest group making campaign donations like the HOTEL industry. They are important people because they are willing to supply housing.

Please Stop hurting the majority of people for the misdeeds of a few violators .

Victim List:

- Families from out of State that are taking care of loved ones
- People moving to Oahu and looking to buy a home
- Families who are waiting for their new home to complete construction
- Government contract workers
- Traveling nurses
- Military PCS while looking for a home to buy
- Home Sellers who need to rent until they find a new property
- Film and TV crews while on a shoot

Please contact me if you have any questions.

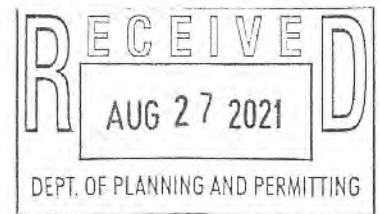


*Aleta E. Klein, R, PB*

RB 10457

KleinCo, LLC

808-942-1988



To whom it may concern,

Regarding the proposed Amendments to Chapter 21 (Land Use Ordinance), Revised Ordinances of Honolulu (ROH)1990, as Amended, Relating to Transient Accommodations, I hereby submit my comments and testimony in opposition.

I fully support enforcement actions against illegal Short-Term Rental operators. There is no need to change the definition from 30-days to 180-days, and I support every effort to properly enforce the 30-day minimum.

The draft Bill plans to ban the legal 30-day minimum vacation rentals in Apartment Precincts in Waikiki. I oppose this Bill for the following reasons:

1. There are people on Oahu who need rentals of less than 180-days. These uses include:
  - Families from out of State that are taking care of loved ones
  - People moving to Oahu and looking to buy a home
  - Families who are waiting for their new home to complete construction
  - Government contract workers
  - Traveling nurses
  - Military PCS while looking for a home to buy
  - Home Sellers who need to rent until they find a new property
  - Film and TV crews while on a shoot

Those people don't need or want to stay at ocean front hotels paying expensive accommodation fees. There should be an option for them to stay at condos less than 180 days with affordable rates. This also benefits Hawaii's economy.

2. Some buildings in Apartment Precincts in Waikiki ban 30-day vacation rentals in their Building Bylaws, while there are some buildings that allow 30-day vacation rentals. If the purpose of this Bill is to protect neighbors, why not let Owners Associations decide by allowing their input? I do not believe the DPP should override those owners' rights and implement such a one-sided standardized rule ignoring each building's owners' opinion and right to decide.

While it is understandable banning illegal vacation rentals in more quiet "residential" neighborhoods such as Kailua or Hawaii Kai, it makes no sense for Waikiki. Waikiki is unique as a successful tourism destination, with many local businesses, restaurants, and shops, that depend on tourists. Healthy successful tourism needs a variety of accommodations that provide options to visitors. With this proposed Bill it is narrowing accommodations to only local residents with long term 180-day leases, who will not contribute to the special businesses aimed at tourism and income for business owners and the state of Hawaii.

It is obvious that this Bill is aimed to help the Hotel Industry in Waikiki. It does not benefit Oahu by providing healthy competition as it only promotes the vested interest of the Hotel industry and its revenue.

I also oppose this Bill for the following reasons:

1. Condo-Hotel properties MUST be operated by the Hotel: There are no illegal vacation rentals in condo- hotels. They are zoned as Hotel/Resort and many privately owned. I'm not a lawyer, but I think it may violate antitrust laws (In the United States, antitrust laws are a collection of federal and state government laws that regulate the conduct and organization of business corporations and are generally intended to promote competition and prevent monopolies). I cannot see any rationale in this move other than monopolizing the tourism market by protecting the hotel industry's interest and destroying legal property management companies.

Competition in this industry is vitally important to keep improving Hawaii's accommodation services and attracting visitors to Hawaii. Competition results in better service, better property management with increased tax income to the State that benefits all local residents.

2. At the City and County level, this bill will affect the market value of many properties. Affecting these values will affect tax revenues and their ultimate use.

There should be other ways to stop illegal vacation rentals or solve the issue of the shortage of housing for local residents.

Letting the Hotel Industry monopolize the Oahu's accommodation options will result in a ruined economy. The blatant political corruption should not be astounding considering the players, including the wife who works for AstonAqua, but it is still extremely disturbing.

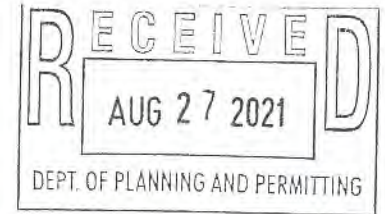
Name Margo Brower.

Date 8/27/2021 | 10:33 AM HAST.

Signature Margo Brower.

DocuSigned by:  
C8BAC09638FE438...

**From:** Larry Barels [mailto:larry.barels@gte.net]  
**Sent:** Friday, August 27, 2021 9:57 AM  
**To:** info@honoluludpp.org  
**Subject:** DPP ILLEGAL VACATION RENTAL BILL



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Planning Commission, 650 South King Street, 7th Floor, Honolulu, Hawaii 96813,

This is to respond to the proposal to create a new vacation rental bill under the terms and conditions currently proposed.

Statement: I am opposed.

Rationale: The bill, as currently proposed, places undue constraints on property owners that are a direct violation of their rights to use their property in the manner that best serves their needs, the needs of the islands communities, and the viability of serving the needs of vacationing families who would like to stay in a home rather than a hotel room.

I have two homes on Oahu in two adjacent properties. Often while staying in my residence, I like to allow family and guests to stay in my adjacent house. I have never had a neighbor complaint and I survey my neighbors regularly in this regard. When I am not on island, I have rented my second home to families who desire to stay in a two bedroom, two bathroom home.

I do not feel that I am removing housing from the community at large and I am very much concerned with the quality, maintenance, and property value of my neighborhood. The few rentals that I currently do, when I am not here, all fall within the current 30 day short term rental guidelines and do not violate any zoning matters known to me. I have registered my secondary property as a rental property and pay both local and Federal taxes on all revenue.

The rental helps with my annual taxes and allows me to be a good neighbor.

Thanks for considering my position,

Larry Barels  
Property Owner and Oahu Resident

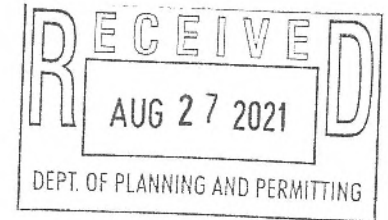
-----Original Message-----

From: Ernest Schenk [mailto:ernestschenk@yahoo.com]

Sent: Friday, August 27, 2021 10:48 AM

To: info@honoluludpp.org

Subject: DPP Str draft bill

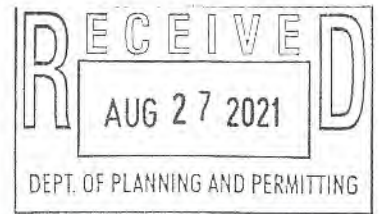


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I strongly oppose this bill.

Ernest Schenk condo owner Waikiki Beach Tower unit 2302.

Sent from my iPad



**From:** Paul Fischer [mailto:fischerd@live.com]

**Sent:** Friday, August 27, 2021 11:51 AM

**To:** info@honoluluodpp.org

**Subject:** Proposed Amendments to Chapter 21(Land Use Ordinance), Revised Ordinances of Honolulu (ROH)1990,as Amended, Relating to Transient Accommodations

CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

To whom it may concern,

I am the owner of a apartment in the Ilikai Tower. and have been a owner fo 57 years. I have paid my property, transient, and excise tax for 57 years. Therefore, I have a vested interest in the future of the Ilikai, Waikiki, and all the Hawaiian residents who are employed by the tourism industry on Oahu.

I hereby submit my comments and testimony in opposition.

Regarding the proposed Amendments to Chapter 21 (Land Use Ordinance), Revised Ordinances of Honolulu (ROH)1990, as Amended, Relating to Transient Accommodations.

I fully support enforcement actions against illegal Short-Term Rental operators. There is no need to change the definition from 30-days to 180-days, and I support every effort to properly enforce the 30-day minimum.

The draft Bill plans to ban 30-day minimum vacation rentals in Apartment Precincts in Waikiki. I oppose this Bill for the following reasons:

1. There are people on Oahu who need rentals of less than 180-days. These uses include:
2. Families from out of State that are taking care of loved ones
3. People moving to Oahu and looking to buy a home
4. Families who are waiting for their new home to complete construction
5. Government contract workers
6. Traveling nurses
7. Military PCS while looking for a home to buy
8. Home Sellers who need to rent until they find a new property
9. Film and TV crews while on a shoot

Those people don't need or want to stay at ocean front hotels pay expensive accommodation fees. There should be an option for them to stay at condos less than 180 days with affordable rates. This benefits Hawaii's economy.

2. Some buildings in Apartment Precincts in Waikiki ban 30-day vacation rentals in their Building Bylaws, while there are some buildings that allow 30-day vacation rentals. If the purpose of this Bill is to protect neighbors, why not let Owners Associations decide by

allowing their input? I do not believe the DPP should override those owners' rights and implement such a one-sided standardized rule ignoring each building's owners opinion and right to decide.

- 3.
4. While it is understandable banning illegal vacation rentals in more quiet "residential" neighborhoods such as Kailua or Hawaii Kai, it makes no sense for Waikiki. Waikiki is unique as a successful tourism destination, with many local businesses, restaurants, and shops, that depend on tourists. Healthy success tourism needs a variety of accommodations that provide options to visitors. With this proposed Bill it is narrowing accommodations to only local residents with long term 180-day leases, who will not contribute to the special businesses aimed at tourism and income for business owners and the State of Hawaii.

It is obvious that this Bill is aimed to help the Hotel Industry in Waikiki. It doesn't benefit Oahu by providing healthy competition as it only promotes the vested interest of the Hotel industry and its revenue.

I also oppose this Bill for the following reasons:

1. Condo-Hotel properties MUST be operated by the Hotel: There are no illegal vacation rentals in condo-hotels. They are zoned as Hotel/Resort and many privately owned. It is my opinion that it will violate antitrust laws. I can't see any rationale in this move other than monopolizing the tourism market by protecting the hotel industry's interest and destroying legal property management companies.

Competition in this industry is vitally important to keep improving Hawaii's accommodation services and attracting visitors to Hawaii. Competition results in better property management with increased tax income to the State that benefits ALL local residents.

2. At the City and County level, this Bill will affect the market value of many properties. Affecting these values will affect tax revenues and their ultimate use.

There should be other ways to stop illegal vacation rentals or solve the issue of the shortage of housing for local residents.

Letting the Hotel Industry monopolize Oahu's accommodation options will result in a ruined economy.

Paul Dieter Fischer

8/27/2021

Owner of a condominium in the Ilikai Tower for 57 years

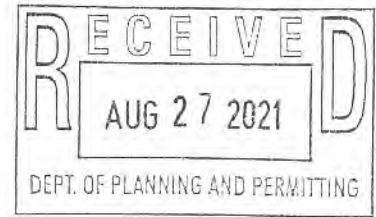
-----Original Message-----

From: Sean Brady [mailto:seanbrady808@yahoo.com]

Sent: Friday, August 27, 2021 12:45 PM

To: info@honoluludpp.org

Subject: Registering to Speak for the 9/1 Hearing



CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

Hi,

My name is Sean Brady and I would like to provide Public Testimony on 9/1/21 in front of the Planning Commissions hearing on STRs.

My talking points will include;

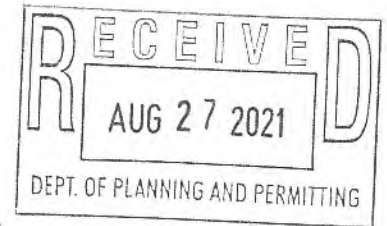
- This bill seeks to take away long-established property rights in the resort zone that explicitly allow people to own and operate TVUs. Those who have chosen to operate short-term rentals in this zone have done so in a good-faith effort to comply with existing laws.
- Those who have purchased or operated within the law have made their commitment to compliance; the County of Honolulu should uphold its end of the deal.
- This bill drastically expands hotels interests while choking out individual property rights. The bill imposes ownership, operations, and financial hurdles and restrictions on TVU operators while at the same time giving corporate hotels unfettered right to operate without the same restrictions and siphon tourism revenue to the mainland
- Short-term rentals are severely limited as to how many days they can permissibly be rented, while hotels are free to rent their rooms every day.
- Bed and breakfast homes may only rent two of the rooms in the home, while hotels may rent as many rooms as are habitable on any given day. Likewise, bed and breakfast homes are limited to two guests per room, while there is no such limitation on hotels.
- Hotels have additional revenue sources that most short-term rentals do not.
- Visitors outside the resort zones stimulate the economy in local neighborhoods by patronizing grocery stores, artisans, tour operators, restaurants and the like.
- Owners of the B&Bs and TVUs hire cleaning staff, maintenance and repair persons nearby.
- Visitors outside resort zones interact with locals, fostering cultural exchange and good neighborliness.
- Dollars spent outside of resort zones tend to remain in those neighborhoods rather than flow offshore.
- Conversely, prohibiting STRs in outlying neighborhoods negatively impacts local economies.
- Many people are able to afford homes here through short-term rentals.
- Most STR operators pay their cleaning staff \$50/hour or more. Hotel staff usually are paid \$30/hour when work is available.
- Cleaners working at STRs generally act as independent contractors. Thus they have greater flexibility in their working schedule to accommodate other responsibilities and opportunities to pick up extra jobs when desired.
- Nuisance issues can be addressed with management, not banishment

- In order to come up with effective and fair solutions for our entire community, we ask DPP to sit down with vacation rental owners and operators, who can help provide insights and solutions it may not otherwise uncover.

- Short-term rentals not only offer accommodations for visitors, but also provide decent and affordable opportunities to others such as traveling medical staff, families arriving to care for their loved ones, contract workers, relocated military families, local residents in need of temporary housing, and others, etc.

Mahalo,  
Sean Brady  
808.589.6320

**From:** Traci Lee [mailto:trace125@gmail.com]  
**Sent:** Friday, August 27, 2021 1:26 PM  
**To:** info@honoluludpp.org  
**Subject:** Opposition Testimony for 9/21 DPP Hearing on Chapter 21 Amendments



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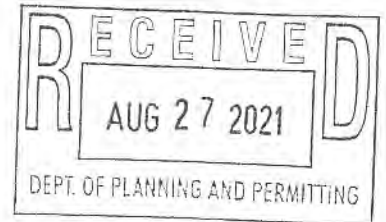
Aloha Planning Commission,

I oppose the amendments you're considering for Short Term Rentals and TVUs. As an owner of a TVU, this ordinance severely infringes upon my rights as a property owner and will significantly depress my property value. I purchased a home several years ago in Waikiki to be closer to my family that lives in Manoa, and because I travel between the mainland and Honolulu for work, I purchased in Waikiki so that my home could easily rent to others for 30 days+ while I was away. As a realtor myself, this rushed regulation will significantly hurt Oahu's real estate economy. Buyers will not want to invest in property that has so many restrictions tied to the property, such as limits on the freedom to rent in a resort area. There is no need to expand the minimum rental period from 30 days to 180 days. 180 days would decimate the rental industry, leaving tenants, landlords, property managers, and house cleaners without recourse. It is excessive and ignores the rights of local property owners who pay taxes into the Hawaii economy. Additionally, any increases in taxes or fees should be put to the will of the voters.

Please reject the proposed amendments. I strongly oppose any of these changes.

--

Traci Lee



-----Original Message-----

From: Lyndsay Brady [mailto:itslyndsaybrady@gmail.com]

Sent: Friday, August 27, 2021 1:28 PM

To: info@honoluludpp.org

Subject: Registering to Speak for the 9/1 Hearing

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

Hi,

My name is lyndsay Brady and I would like to provide Public Testimony on 9/1/21 in front of the Planning Commissions hearing on STRs.

My talking points will include;

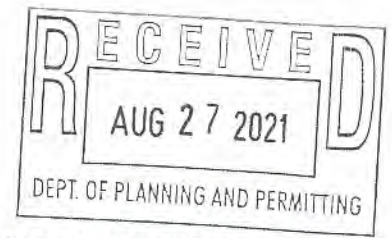
- This bill seeks to take away long-established property rights in the resort zone that explicitly allow people to own and operate TVUs. Those who have chosen to operate short-term rentals in this zone have done so in a good-faith effort to comply with existing laws.
- Those who have purchased or operated within the law have made their commitment to compliance; the County of Honolulu should uphold its end of the deal.
- This bill drastically expands hotels interests while choking out individual property rights. The bill imposes ownership, operations, and financial hurdles and restrictions on TVU operators while at the same time giving corporate hotels unfettered right to operate without the same restrictions and siphon tourism revenue to the mainland
- Short-term rentals are severely limited as to how many days they can permissibly be rented, while hotels are free to rent their rooms every day.
- Bed and breakfast homes may only rent two of the rooms in the home, while hotels may rent as many rooms as are habitable on any given day. Likewise, bed and breakfast homes are limited to two guests per room, while there is no such limitation on hotels.
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- Cleaners working at STRs generally act as independent contractors. Thus they have greater flexibility in their working schedule to accommodate other responsibilities and opportunities to pick up extra jobs when desired.
- Nuisance issues can be addressed with management, not banishment

- In order to come up with effective and fair solutions for our entire community, we ask DPP to sit down with vacation rental owners and operators, who can help provide insights and solutions it may not otherwise uncover.

- Short-term rentals not only offer accommodations for visitors, but also provide decent and affordable opportunities to others such as traveling medical staff, families arriving to care for their loved ones, contract workers, relocated military families, local residents in need of temporary housing, and others, etc.

Lyndsay Brady  
808.382.4769 cell

Sent from my iPhone



**From:** Susan Lee [mailto:jeunglee.susan@gmail.com]

**Sent:** Friday, August 27, 2021 2:17 PM

**To:** info@honoluluodpp.org

**Subject:** TESTIMONY TO OPPOSE AMENDMENTS TO CHAPTER 21 - SEPT 1, 2021 PLANNING COMM. HEARING

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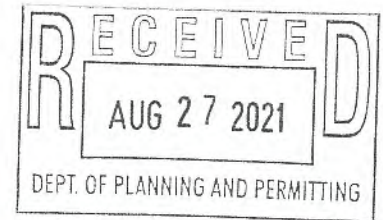
**EMAIL SUBJECT:** TESTIMONY TO OPPOSE AMENDMENTS TO CHAPTER 21 - SEPT 1, 2021 PLANNING COMM. HEARING]

Dear Members of the Planning Commission and Chair Lee:

I am writing to express my **opposition to proposed amendments to Chapter 21** (Land Use Ordinance [LUO]), Revised Ordinances of Honolulu (ROH) 1990, as Amended relating to Transient Accommodations. I am a property owner in Waikiki and have been coming to the islands for over five decades. My mother and aunt lived in public housing in Honolulu on King Street in the 1940s, and part of our family moved to California after several years on the islands. However, we continue to visit and pay homage to our relatives who built roots here in Hawaii. In order to do that, my family purchased a condo in Waikiki so that we could visit family and also rent the property while we are back on the mainland. During Covid, we have spent many months on Oahu visiting family while staying in our condo. The proposed change to update definitions of B&Bs and TVUs from a minimum duration of 30 days to 180 days would be a huge detriment to myself, my family, and Oahu's economy. If the proposed change went into effect, I would not be able to stay in my own home while visiting family because it would likely be rented out on a long-term basis of at least 6 months. This is untenable as a property owner who has invested in the island and who has ties to the communities here. Instead, I would have to rent a hotel or burden family with staying with them if I wanted to visit for several weeks or months. During Covid, this is especially difficult. Financially, this also makes it incredibly difficult for me to continue to make frequent trips to the islands as currently I plan my trips around the 30 day rentals we have. I try to visit my family in Hawaii 4-5 times a year. **No changes need to be made to existing law except to step up enforcement actions against those who are violating the short-term rental laws.** The law-abiding owners should not be penalized for the actions of a few. I strongly urge you to step back and reconsider the proposed amendments and keep the 30 day minimum duration for B&Bs and TVUs.

Mahalo,  
Susan Jeung

**From:** Brady Yee Pacific Contract [mailto:brady@pacific-contract.com]  
**Sent:** Friday, August 27, 2021 3:25 PM  
**To:** info@honoluludpp.org  
**Subject:** Registering to Speak for the 9/1 Hearing



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DPP,

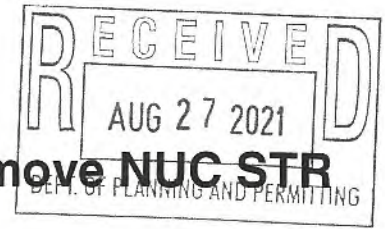
I am not in favor of Bill that will change the short term rental market from 30 days to 180 days. I am a native to Hawaii, born and raised here. The hotels interests are not in line with locals and it is grossly unfair to its residents and our homes and businesses.

There will be an economic fall out of a severe nature and locals will be pushed out of this state if Hotels continue to strong arm us for every precious resource remaining. We cannot allow them to do this to our residents. We need a fair trial.

I am appalled by this plan. Stop the bill from moving forward. Enough damage has been done.

cheers, brady yee

pacificcontract  
honolulu, pacific northwest  
[www.pacific-contract.com](http://www.pacific-contract.com)  
tel 808.216.8364



**The portion of the bill that proposes to move NUC STR into resort tax category is unfair.**

Resort zoning allows property uses, in addition to visitor hosting; i.e. commercial, restaurants, office, retails, etc.. True resort properties have more sources of revenue and a higher market value. NUC STR would not receive these benefits.

80%+ of legal NUC STR are values under \$1M and a tax classification change, across the board, would mean the "little guys" would see their tax obligation multiplied by 4 while the "big guys" would only see a 30 to 50% increase.

The legal STR have been paying NUC renewal fees, TAT and GET, for over 30 years, while the city allowed illegal operators to break the law, with impunity while unfairly competing with legal STR. Changing the tax rate to resort will penalize the law abiding owners while discouraging others to follow the law. This will continue to place an unfair competitive burden to the law abiding owners.

Before any property tax change is considered, the DPP and C&C of Honolulu, must prove they are able to enforce existing laws.

**Sincerely,**

Roberto and Elizabeth Lopes  
Haleiwa, HI